



COUNCIL CHAMBERS

17555 PEAK AVENUE MORGAN HILL CALIFORNIA 95037

COUNCIL MEMBERS

Dennis Kennedy, Mayor
Steve Tate, Mayor Pro Tempore
Larry Carr, Council Member
Mark Grzan, Council Member
Greg Sellers, Council Member

REDEVELOPMENT AGENCY

Dennis Kennedy, Chair
Steve Tate, Vice-Chair
Larry Carr, Agency Member
Mark Grzan, Agency Member
Greg Sellers, Agency Member

WEDNESDAY, OCTOBER 5, 2005

AGENDA

JOINT MEETING

CITY COUNCIL SPECIAL AND REGULAR MEETING

and

REDEVELOPMENT AGENCY SPECIAL MEETING

6:00 P.M.

A Special Meeting of the City Council and Redevelopment Agency is Called at 6:00 P.M. for the Purpose of Conducting Closed Sessions, and a Special Redevelopment Agency meeting is Called at 7:00 p.m. to Conduct Redevelopment Agency Business.

Dennis Kennedy, Mayor/Chairman

CALL TO ORDER

(Mayor/Chairperson Kennedy)

ROLL CALL ATTENDANCE

(City Clerk/Agency Secretary Torrez)

DECLARATION OF POSTING OF AGENDA

Per Government Code 54954.2

(City Clerk/Agency Secretary Torrez)

6:00 P.M.

City Council Action and Redevelopment Agency Action

CLOSED SESSION:

1.

CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Authority: Government Code Sections 54956.9(b) & (c)
Number of Potential Cases: 3

2.

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

Authority: Government Code Section 54956.9(a)
Case Name: General Lighting Service, Inc. v. Wells Construction Group, et al.
[Consolidated Actions]
Case Number: Santa Clara County Superior Court, Lead Case No. 1-04-CV-025561

3.

CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Authority: Government Code 54956.8
Property: 17440 Monterey Road, APN: 726-14-028
Negotiating Parties: City Manager, Director of Business Assistance & Housing Services,
City Attorney
Closed Session Topic/Under Negotiation: Price and Terms of Payment

OPPORTUNITY FOR PUBLIC COMMENT

ADJOURN TO CLOSED SESSION

RECONVENE

CLOSED SESSION ANNOUNCEMENT

7:00 P.M.

SILENT INVOCATION

PLEDGE OF ALLEGIANCE

PROCLAMATION

Teachers Aid Coalition (TAC)
Roger Beaulieu and Ray Jimenez

RECOGNITION

Pacific Gas & Electric's 100th Anniversary
Teresa Alvarado, PG&E Company Representative

CITY COUNCIL REPORT

Mayor Pro Tempore Tate

CITY COUNCIL SUB-COMMITTEE REPORTS

CITY MANAGER'S REPORT

CITY ATTORNEY'S REPORT

OTHER REPORTS

PUBLIC COMMENT

NOW IS THE TIME FOR COMMENTS FROM THE PUBLIC REGARDING ITEMS NOT ON THIS AGENDA.

(See notice attached to the end of this agenda.)

**PUBLIC COMMENTS ON ITEMS APPEARING ON THIS AGENDA WILL BE TAKEN AT THE TIME
THE ITEM IS ADDRESSED BY THE COUNCIL. PLEASE COMPLETE A SPEAKER CARD AND
PRESENT IT TO THE CITY CLERK.**

(See notice attached to the end of this agenda.)

**PLEASE SUBMIT WRITTEN CORRESPONDENCE TO THE CITY CLERK/AGENCY SECRETARY. THE
CITY CLERK/AGENCY SECRETARY WILL FORWARD CORRESPONDENCE TO THE CITY
COUNCIL/REDEVELOPMENT AGENCY.**

City Council Action

CONSENT CALENDAR:

ITEMS 1-10 The Consent Calendar may be acted upon with one motion, a second and the vote, by each respective Agency. The Consent Calendar items are of a routine or generally uncontested nature and may be acted upon with one motion. Pursuant to Section 5.1 of the City Council Rules of Conduct, any member of the Council or public may request to have an item pulled from the Consent Calendar to be acted upon individually.

Time Estimate

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Consent Calendar: 1 - 10 Minutes

1. **REJECTION OF BID FOR THE BUTTERFIELD WELL PUMP STATION PROJECT**7
Recommended Action(s):
 1. **Reject** the Bid Received on September 28, 2005 for the Construction of the Butterfield Well Pump Station; and
 2. **Authorize** Staff to Re-bid the Project.
2. **POLICY RECOMMENDATIONS FROM THE UTILITIES AND ENVIRONMENT
SUBCOMMITTEE ON LEGISLATION**8
Recommended Action(s): Take No Action on Proposition 80 and the Video Choice Act of 2005.
3. **AWARD CONTRACT FOR MICROFICHE CONVERSION SERVICES**9
Recommended Action(s): Award Contract for the Conversion of all Microfiche Archives to Electronic Images to Convert-A-Doc in the Amount of \$56,324.45, Subject to Review and Approval by City Attorney.
4. **APPROVE PURCHASE ORDER FOR EQUIPMENT FOR THE NEW POLICE FACILITY**10
Recommended Action(s): Authorize the City Manager to Approve a Purchase Order in the Amount of \$6,000 to Verizon Telephone Company for the Additional Cost of the Installation of Upgraded Phone Equipment and the Transference of Equipment from the Old Police Facility to the New Police Facility.

Time Estimate

Page

Consent Calendar: 1 - 10 Minutes

5. [APPROVAL OF LABOR CONTRACT WITH AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES \(AFSCME\) LOCAL 101](#)11
Recommended Action(s): Approve Three-Year Memorandum of Understanding with the American Federation of State, County and Municipal Employees (AFSCME) Local 101.
6. [APPROVAL OF LABOR CONTRACT WITH MORGAN HILL COMMUNITY SERVICE OFFICER ASSOCIATION \(CSOA\)](#)13
Recommended Action(s): Approve Three-Year Memorandum of Understanding with the Morgan Hill Community Service Officer Association (CSOA).
7. [ORGANIZATION OF THE RECREATION AND COMMUNITY SERVICES DEPARTMENT](#)15
Recommended Action(s):
 1. **Authorize** the Position of “Director of Recreation and Community Services”; and
 2. **Direct** the City Manager to Submit Recommendations on Any Other Changes that May be Appropriate Within 90 Days.
8. [CITY COUNCIL SPECIAL MEETING NOTES, SEPTEMBER 8, 2005](#)17
Recommended Action(s): Receive, Information Only; No Action Required.
9. [APPROVE CITY COUNCIL SPECIAL MEETING MINUTES OF SEPTEMBER 21, 2005](#)18
10. [APPROVE SPECIAL AND REGULAR CITY COUNCIL AND SPECIAL REDEVELOPMENT AGENCY MEETING MINUTES OF SEPTEMBER 21, 2005](#)21

City Council Action (Continued)

CONSENT CALENDAR:

ITEM 11

Time Estimate

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Consent Calendar: 1 - 10 Minutes

11. [EMERGENCY EXPENDITURE FOR STORM LINE REPAIR ON EAST CENTRAL AVENUE](#)46
Recommended Action(s):
 1. **Adopt** Resolution Declaring the Need for an Emergency Expenditure for Storm Line Repair on East Central Avenue; and
 2. **Approve** Payment in the Amount of \$12,654 for the Emergency Work.

City Council Action

PUBLIC HEARINGS:

	<u>Time Estimate</u>		<u>Page</u>
12.	10 Minutes	<p><u>GENERAL PLAN AMENDMENT, GPA-05-03 AND PREZONING APPLICATION, ZA-05-10: CONDIT ROAD-KUBO</u>.....</p> <p>Public Hearing Opened. Please Limit Your Remarks to 3 Minutes. Public Hearing Closed Council Discussion. Action- <u>Approve</u> Negative Declaration. Action- <u>Adopt</u> Resolution Approving General Plan Amendment. Action- <u>Motion to Waive</u> the Reading in Full of Ordinance Pre-zoning area PUD. Action- <u>Motion to Introduce</u> Ordinance by Title Only. (Roll Call Vote)</p>	49
13.	30 Minutes	<p><u>GENERAL PLAN AMENDMENT APPLICATION, GPA-04-09/ ZONING AMENDMENT, ZA-05-01: MONTEREY-ALCINI; AND GENERAL PLAN AMENDMENT GPA-04-10: E. DUNNE-BASANTY</u>.....</p> <p>Public Hearing Opened on GPA-04-09: Alcini and GPA-04-10: Basanty. Please Limit Your Remarks to 3 Minutes. Public Hearing Closed Council Discussion. Action- <u>Approve</u> the Mitigated Negative Declaration. Action- <u>Adopt</u> Resolution Approving the General Plan Amendment for Alcini. Action- <u>Adopt</u> Resolution Approving General Plan Amendment for Basanty.</p> <p>Public Hearing Opened on ZA-05-01: Monterey-Alcini. Please Limit Your Remarks to 3 Minutes. Public Hearing Closed Council Discussion. Action- <u>Motion to Waive</u> the Reading in Full of Ordinance Extending the CC/R Zoning District South of Dunne Avenue. Action- <u>Motion to Introduce</u> Ordinance by Title Only. (Roll Call Vote)</p>	63
14.	5 Minutes	<p><u>APPLICATION GPA-05-01: AMENDMENT TO THE CIRCULATION ELEMENT FOR THE MADRONE PARKWAY EXTENSION</u>.....</p> <p>Public Hearing Opened. Please Limit Your Remarks to 3 Minutes. Public Hearing Closed Council Discussion. Action- <u>Take No Action</u>, Thereby Keeping the Madrone Parkway Extension in the Circulation Element of the General Plan.</p>	73

City Council Action

OTHER BUSINESS:

	Time Estimate		Page
15.	15 Minutes	<u>POTENTIAL MORATORIUM ON CELL TOWER SITING</u>	74
		<u>Recommended Action(s):</u> <u>Consider</u> Recommendation from the Utilities and Environment Subcommittee.	
16.	15 Minutes	<u>LEAGUE OF CALIFORNIA CITIES ANNUAL CONFERENCE RESOLUTIONS</u>	77
		<u>Recommended Action(s):</u> <u>Provide Direction</u> to Morgan Hill's League of California Cities Voting Delegate Regarding League Resolutions.	

City Council and Redevelopment Agency Action

OTHER BUSINESS:

	Time Estimate		Page
17.	10 Minutes	<u>MAYOR, COUNCIL MEMBER, AND REDEVELOPMENT AGENCY BOARD MEMBER COMPENSATION</u>	79
		<u>Recommended Action(s):</u> <u>Discuss</u> Compensation Options for Mayor, City Council Members, and RDA Board Members.	

FUTURE COUNCIL-INITIATED AGENDA ITEMS:

Note: in accordance with Government Code Section 54954.2(a), there shall be no discussion, debate and/or action taken on any request other than providing direction to staff to place the matter of business on a future agenda.

ADJOURNMENT



CITY COUNCIL STAFF REPORT

MEETING DATE: OCTOBER 5, 2005

REJECTION OF BID FOR THE BUTTERFIELD WELL PUMP STATION PROJECT

RECOMMENDED ACTION(S):

1. Reject the bid received on September 28, 2005 for the construction of the Butterfield Well Pump Station.
2. Authorize staff to re-bid the project.

EXECUTIVE SUMMARY:

On July 7, 2004, City Council authorized emergency well drilling. A well with a temporary pump station was constructed at the Butterfield Boulevard and Central Avenue location and is currently in operation.

The scope of work for this project includes constructing a building to protect the Butterfield well pump station. Work includes constructing foundations, block building with removable roof, motor control center, electrical work and associated site work, including landscaping. The exterior of the building has been designed by South Valley Developer's architect to match the design of the houses in the subdivision.

Staff prepared the bid package to construct the pump station which was advertised in June 2005. The first bid opening was held on July 13, 2005 and the bids received were substantially higher than the engineer's estimate of \$370,000 for this project. The City Council rejected the bids on July 27, 2005, with direction to staff to rebid the project; assuming the project was bid when contractors were very busy, a delay would result in lower bids. The second bid opening was held on September 28, 2005 and the sole bid received is listed below:

Trinet Construction Inc.	\$748,000
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This bid result is still significantly higher than the revised Engineer's estimate of \$460,000. Subsequent to the bid opening, staff contacted the contractors who attended the mandatory pre-bid meeting to ascertain the circumstances that prevented them from submitting bids. These contractors indicated that they did not have adequate time to complete the bid package and they remain interested in the project. Staff is recommending that the bid be rejected and the project re-bid in hopes of obtaining more satisfactory bid results.

FISCAL IMPACT: None.

Agenda Item #1

Prepared By:

Senior Engineer

Approved By:

Public Works Director

Submitted By:

City Manager



CITY COUNCIL STAFF REPORT

MEETING DATE: October 5, 2005

POLICY RECOMMENDATIONS FROM THE UTILITIES AND ENVIRONMENT SUBCOMMITTEE ON LEGISLATION

RECOMMENDED ACTION(S):

- 1) Take no action on Proposition 80 and the Video Choice Act of 2005

EXECUTIVE SUMMARY: At the September 19th meeting of the Utilities and Environment Subcommittee, the Subcommittee made two recommendations on policy positions relating to proposed propositions and legislation.

Responding to a request from the Silicon Valley Leadership Group to oppose Proposition 80, the Subcommittee recommends that the City take no position on this legislation. If successful, Proposition 80 will prevent customers from directly purchasing electricity from suppliers. The Leadership Group is opposed to the Proposition because many of the members would like to be able to directly procure electricity. The Subcommittee recommends taking no position at this time because the direct purchase of electricity by local businesses could jeopardize the City's ability to successfully pursue community choice aggregation by reducing the local aggregated demand.

Charter Communications has requested that the City oppose the Video Choice Act of 2005 as proposed in Congress. This Act addresses the circumstances under which telephone companies can provide video services. The Subcommittee recommends taking no position on this matter because the issue area is far a field of normal civic concerns.

FISCAL/RESOURCE IMPACT: There is no fiscal impact anticipated from this action. The staff time to prepare this item and related communications is included in the work program of the Public Works Department.

Agenda Item #2

Prepared By:

Program Administrator

Approved By:

Public Works Director

Submitted By:

City Manager



CITY COUNCIL STAFF REPORT

MEETING DATE: OCTOBER 5TH, 2005

AWARD CONTRACT FOR MICROFICHE CONVERSION SERVICES

RECOMMENDED ACTION(S):

1. Award contract for the conversion of all microfiche archives to electronic images to Convert-A-Doc in the amount of \$56,324.45, subject to review and approval by City Attorney.

EXECUTIVE SUMMARY:

In an effort to better serve the public, the Building Division is proposing to convert all building permit archives from microfilm to electronic images. Records will be easily accessible to all City staff via their desktops, through LaserFiche (Document Management Software); and available to the public through a stand alone PC which will be located at the Building Division front counter. Staff has sought and received three proposals for the conversion of approximately 1 million documents to electronic images. Bids were received from Soft File for \$58,826.72, ATI for \$56,570.62, and Convert-A-Doc for \$56,324.45. Staff has successfully completed a reference check of Convert-A-Doc and is hereby recommending award to them in the amount of \$56,324.45.

FISCAL IMPACT:

The current year contract services account (206.5130.42231) has a total of \$185,000.00 which is sufficient to fund this project as recommended. No additional funding is required.

Agenda Item # 3

Prepared By:

**Monica Chavez
Delgado**

Approved By:

Jim Rowe

Submitted By:

City Manager



CITY COUNCIL STAFF REPORT

MEETING DATE: October 5, 2005

APPROVE PURCHASE ORDER FOR EQUIPMENT FOR THE NEW POLICE FACILITY

RECOMMENDED ACTION(S):

- 1) Authorize the City Manager to approve a Purchase Order in the amount of \$6,000.00 to Verizon Telephone Company for the additional cost of the installation of upgraded phone equipment and the transference of equipment from the old police facility to the new police facility.

EXECUTIVE SUMMARY:

In July '03 the council purchased a building located at 16200 Vineyard Blvd. as the future Morgan Hill Police Department. The Council approved the purchase price and the estimated Furniture, Fixtures & Equipment to complete the project. As the final design phase was completed for the tenant improvements, the installation of the upgraded phone system was purchased on an earlier council approved purchase order.

As the project neared completion, additional phone equipment was identified as needed to complete the project and make the phone system operational. Due to the target date of June 14, 2004 for opening operations at the new facility, the needed equipment was quickly ordered and some of that equipment installed.

The Building Department found that there would be an additional cost of \$6,000.00 for purchase of some of the equipment and moving of the equipment from the old facility to the new facility.

The Police Facility received the remainder of the ordered equipment in June 2005. After Verizon finished the project, they submitted a total bill of \$41,871.27. We are currently requesting a breakdown of costs which totaled \$41,871.27. To date we have been approved for \$28,030.00 by Council and request this additional cost of \$6,000.00 totaling \$34,030.00. The remaining \$7,841.27 is currently being negotiated with Verizon and will be brought forth to Council at a later date, if this amount is justified by Verizon.

FISCAL IMPACT:

The additional \$6,000.00 in funds will be drawn from building maintenance fund #740, account number 5150-42510. Sufficient appropriations are available in this budget to pay this cost.

Agenda Item # 4

Prepared By:

Cmdr. Terrie Booten

Approved By:

Chief Bruce C. Cumming

Submitted By:

City Manager



CITY COUNCIL STAFF REPORT

MEETING DATE: October 5, 2005

Agenda Item # 5

Prepared By:

HR Director

Submitted By:

City Manager

APPROVAL OF LABOR CONTRACT WITH AMERICAN FEDERATION OF STATE COUNTY AND MUNICIPAL EMPLOYEES (AFSCME) LOCAL 101

RECOMMENDED ACTIONS:

1. Approve three-year memorandum of understanding with the American Federation of State County and Municipal Employees (AFSCME) Local 101

EXECUTIVE SUMMARY:

Following City Council's authorization on February 23, 2005, the City of Morgan Hill's negotiating team met with the AFSCME bargaining unit often throughout the summer. Working within the negotiating framework assigned by the Council, the City's negotiating team reached tentative agreement with the Union's negotiating team in late August on a new three-year labor contract. The contract was ratified by AFSCME members in September. The long hours spent at the negotiating table resulted in forthright, collaborative and respectful negotiation sessions with both sides feeling they have reached the best possible settlement given the current economic climate. A summary of the major components of the new contract is provided in Attachment A. This contract's effective date is July 1, 2005 – June 30, 2008.

The total compensation package offered to AFSCME employees is fiscally prudent, is competitive with that of other local government employers in this region, and provides incentive for employees to stay with the City. The compensation and benefits provided to our employees are valuable tools for attracting and retaining high-quality employees.

FISCAL IMPACT:

The fiscal impact of this contract falls within the City Council's parameters.

LIST OF ATTACHMENTS:

ATTACHMENT A:

Major components of AFSCME Memorandum of Understanding

ATTACHMENT A
AFSCME MEMORANDUM OF UNDERSTANDING

Three Year Agreement

Fiscal Year 2005-06

- 0% salary increase
- Comp Time maximum accrual increased to 200 hours
- No increase in vacation accrual, however, a change in the timing of the accruals
- Effective 6/18/06, PERS retirement 2.5% @ 55. Employee to pay 1% of contribution and an additional 25% of employer contribution rate increases in future years
- Joint labor/management study of flexibly staffed positions

Fiscal Year 2006-07

- 3.5% salary increase effective pay period 6/18/06
- 1.5% salary increase effective pay period 12/31/06

Fiscal Year 2007-08

- 3% salary increase effective pay period 7/1/07
- 2% salary increase effective pay period 12/30/07



CITY COUNCIL STAFF REPORT

MEETING DATE: October 5, 2005

Agenda Item # 6

Prepared By:

HR Director

Submitted By:

City Manager

APPROVAL OF LABOR CONTRACT WITH MORGAN HILL COMMUNITY SERVICE OFFICER ASSOCIATION

RECOMMENDED ACTIONS:

1. Approve three-year memorandum of understanding with the Morgan Hill Community Service Officers Association (CSOA)

EXECUTIVE SUMMARY:

Following City Council's authorization on February 23, 2005, the City of Morgan Hill's negotiating team met with the CSOA bargaining team often throughout the summer. Working within the negotiating framework assigned by the Council, the City's negotiating team reached tentative agreement with the Union's negotiating team in late August on a new three-year labor contract. The contract was ratified by CSOA members in September. A summary of the major components of the new contract is provided in Attachment A. This contract's effective date is July 1, 2005 – June 30, 2008.

The total compensation package offered to CSOA employees is fiscally prudent, is competitive with that of other local government employers in this region, and provides incentive for employees to stay with the City. The compensation and benefits provided to our employees are valuable tools for attracting and retaining high-quality employees.

FISCAL IMPACT:

The fiscal impact of this contract falls within the City Council's parameters.

LIST OF ATTACHMENTS:

ATTACHMENT A:

Major components of CSOA Memorandum of Understanding

ATTACHMENT A

CSOA MEMORANDUM OF UNDERSTANDING

Three Year Agreement

Fiscal Year 2005-06

- 0% salary increase except for the classification of Public Safety Dispatcher which will receive 3.5% salary increase effective 6/19/05 and 3.5% on 1/1/06 and a 5% solo dispatch premium
- Health allowance changed to the following formulas effective 1/1/06”
 - For family health care allowance, City will pay 90% of the total cost of the lowest medical, dental and vision premiums
 - For employee plus one dependent, City will pay 96.5% of the total cost of the lowest medical, dental and vision premiums
 - For employee only, City will pay 100% of the total cost of the lowest medical, dental and vision premiums
 - Medical and/or dental in-lieu allowance will be frozen at its current rate of \$715
- Comp Time maximum accrual increased to 200 hours
- Uniform allowance increased to \$600 (in-office) or \$750 (street positions)
- Effective 6/18/06, PERS retirement 2.5% @ 55. Employee to pay 1% of contribution and an additional 25% of employer contribution rate increases in future years

Fiscal Year 2006-07

- 3.5% salary increase effective pay period 6/18/06
- 1.5% salary increase effective pay period 12/31/06

Fiscal Year 2007-08

- 3% salary increase effective pay period 7/1/07
- 2% salary increase effective pay period 12/30/07



CITY COUNCIL STAFF REPORT

MEETING DATE: October 5, 2005

Agenda Item # 7

**Prepared & Submitted
By:**

City Manager

ORGANIZATION OF THE RECREATION AND COMMUNITY SERVICES DEPARTMENT

RECOMMENDED ACTION(S):

1. Authorize the position of "Director of Recreation and Community Services;" and
2. Direct the City Manager to submit recommendations on any other changes that may be appropriate within 90 days.

EXECUTIVE SUMMARY: Since 1998 and the re-establishment of municipal recreation services, the functions have been organized as a "Division" led by a "Manager." (See attached chart showing the current organization and staffing.) A few years ago, the Division was re-titled "Recreation and Community Services" to reflect opening of the Community and Cultural Center, and the need for liaison with non profit organizations and other agencies such as the County Library system. Since then the Aquatics Center has opened, and the new Indoor Recreation Center (IRC) is under construction. The Outdoor Sports Complex is being planned. The new library will be bid after the first of the year.

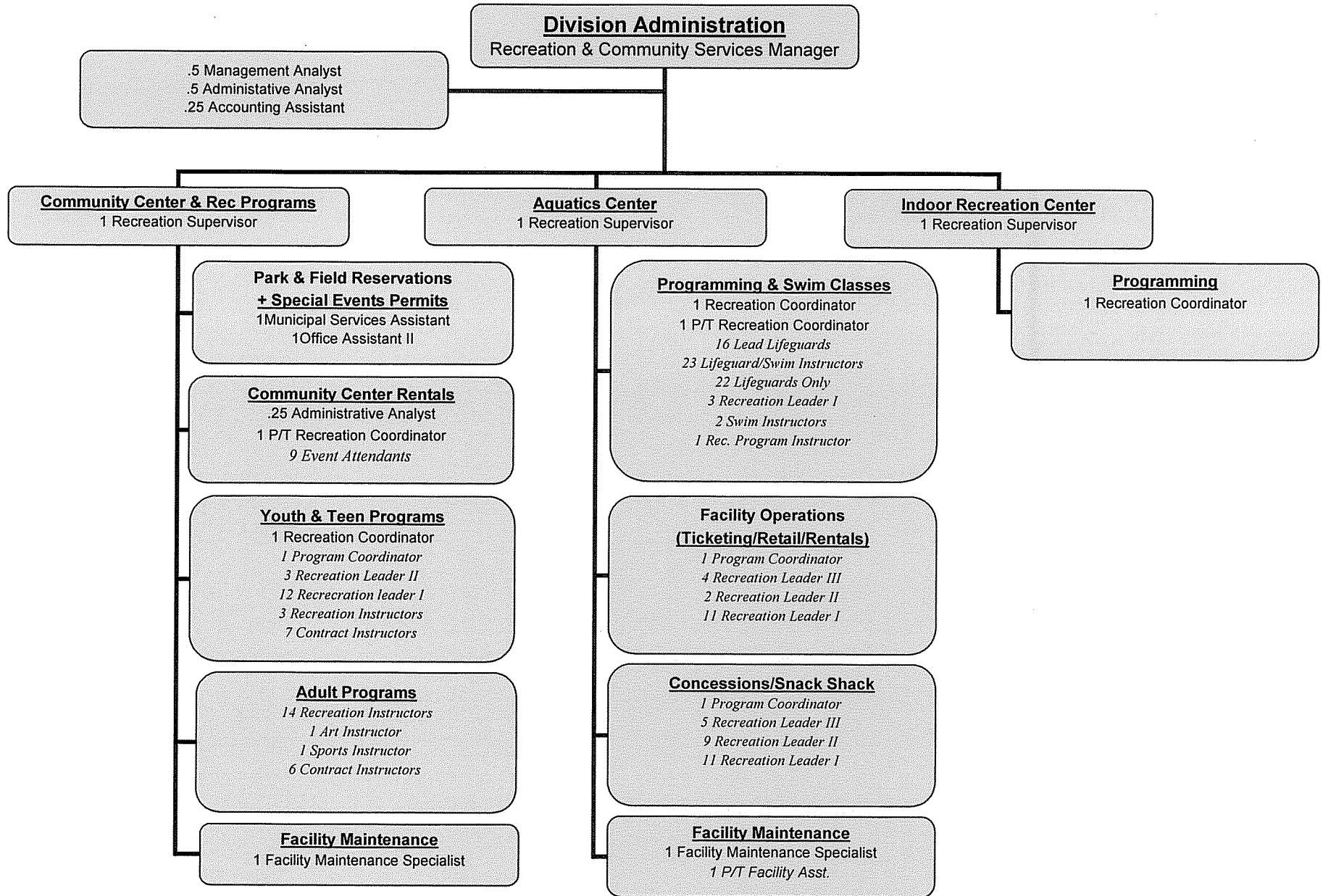
The scope and nature of the responsibilities, including financial management, have grown to the point at which the functions should be organized as a separate department led by a director.

A Director of Recreation and Community Services would be compensated within the established salary range for department directors of \$9,416 – \$11,885, per month. Recruitment could begin immediately with the expectation of having the position filled within four months or so.

It seems apparent the functions of the new department would include operations of facilities and programs, as well as long range planning and coordination with other service providers including the School District. However, it is not yet clear whether there should be a formal "division" structure headed by "managers." Moreover, the question of how best to organize the "operations" function is in part dependent on decisions yet to be made about the role of the YMCA in operating the new Indoor Recreation Center. The City's budget situation requires that we continue with a lean management structure. Yet, there is need for both day-to-day supervision of each of the major facilities, and overall management direction for staffing, program delivery, and financial results. The adopted budget provides for a new "Recreation Supervisor" and a "Recreation Program Coordinator" for the IRC. It is anticipated Council will consider a report and recommendation on a potential role for the YMCA within the next few weeks. It may be necessary to reconsider the proposed IRC staffing pattern.

FISCAL IMPACT: The impact of this recommendation is to increase the cost of the senior executive staff position by about 15%. Other changes in the budget will be necessary depending on the final recommendation regarding changes in other management and supervisory positions that may be needed.

Recreation and Community Services Division Organization Chart



**CITY OF MORGAN HILL
CITY COUNCIL SPECIAL MEETING
MINUTES - SEPTEMBER 8, 2005**

City Council Meeting Cancelled

Due to lack of quorum, the special City Council Meeting was cancelled. South County Stakeholders Meeting proceeded without said quorum.

Council Members Present: Mayor Pro Tem Tate and Mayor Kennedy
Council Members Absent: Council Members Carr, Grzan and Sellers

Stakeholder Members Present: Kathy Molloy Prevesich, Don Gage, Ed Tewes, Peter Mandel, Shelle Thomas, Shanna Boigan, Rebecca Van Dahlen, Steve Kinsella, Michele Beasley, Jim Ashcraft, Russ Danielson, Alan Nishino

Direction of Stakeholders:

Stakeholders requested that Supervisor Don Gage and CVSP member Russ Danielson make the following statement at the September 12, 2005 Coyote Valley Specific Plan meeting, on behalf of the South County Stakeholders Group: "The triggers for the Coyote Valley build out should maintain the connection between the housing and jobs balance at least until the housing analysis shows that housing can pay for itself."

NOTES RECORDED AND PREPARED BY:

Lisa Lewis, Office Assistant II

**CITY OF MORGAN HILL
CITY COUNCIL SPECIAL MEETING
MINUTES – SEPTEMBER 21, 2005**

CALL TO ORDER

Mayor Kennedy called the special meeting to order at 7:07 p.m.

ROLL CALL ATTENDANCE

Present: Council Members Carr, Grzan, Sellers, Tate and Mayor Kennedy

DECLARATION OF POSTING OF AGENDA

City Clerk Torrez certified that the meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2.

SILENT INVOCATION

PLEDGE OF ALLEGIANCE

At the invitation of Mayor/Chairman Kennedy, Katherine Soult, a Live Oak High School Student, led the Pledge of Allegiance.

PUBLIC COMMENT

Mayor/Chairman Kennedy opened the floor to public comment for items not appearing on this evening's agenda.

Rebecca Van Dahlen informed the Council that she sent Council Members an e-mail. She indicated that she and the Mueller family have sustained water damage to their homes, on several occasions, as a result of the high water pressure in certain areas in Morgan Hill. She stated that both the Public Utilities Commission (PUC) and the American Water Workers Association state that water pressure above 120 psi is not good engineering and is out of standard with their published materials. She indicated that they have water pressure coming into their homes above 200 psi, and that this has caused considerable damage. She said that in the most recent incident, a portion of her driveway has been damaged because the pipe burst between the meter box and the Muellers' home. She said that it would cost over \$10,000 to repair the damage. In working with the City on this situation, they have discovered that there are policies in affect that do not take care of its residents. She felt that this has been a known issue by the individuals charged with taking care of the City's water system, and that they are aware that there are homes that receive an inordinately high water pressure. She said the City advises homeowners to install water pressure regulators if one has over 120 psi water pressure. She said that they have attempted to proceed with the recommendations of the City; installing water pressure regulators. She said that the last break at her home occurred between the meter and the pressure regulator valve. She stated that there is not much more she can do as a homeowner to correct the situation as it is the City who is

regulated by the PUC. She said that she and the Muellers have each absorbed over \$10,000 worth of damage, out of pocket. Further, this does not address what it will do to them insurance-wise. She felt the City needs to resolve the situation so that homeowners are not unknowingly going to suffer this kind of loss. She felt that the proper location/installation of pressure regulators needs to be communicated to citizens. Should the City not take proactive measures, it forces homeowners to try and force the City to correct the problem. She stated that they are willing to absorb what has been lost thus far. However, she wants the City to come forward and correct the problem.

Mayor Kennedy read a statement regarding Family Day; a day to eat dinner with children. He indicated that the day earmarked for this program is Monday, September 26, 2005 and that it is sponsored by the National Center on Addiction and Substance Abuse at Columbia University, Nick at Night and others. He encouraged parents to have dinner with their children, as a family.

City Manager Tewes said that in light of potential litigation, his comments would be brief. He informed the Council that staff and he have had several conversations with the Van Dahlens and Muellers regarding the situation. He said that there are two issues: 1) the claim that may arise out of damage that occurred a couple of weeks ago; and 2) what is the appropriate public policy for operating a water system in a steep hillside area. Regarding the claim, he stated that it is staff's view that it is the responsibility of private property owners with water damage to make repairs on "their side of the meter." He said that since the time he met with the Muellers and the Van Dahlens, the actual leak had not been uncovered. Therefore, the exact cause of damage was not known. It was indicated that the water pipe laid underneath a driveway that had been initially constructed with decomposed granite, and later asphalted. He stated that it is correct that in the hillside and in many of the City's pressure zones, there is pressure higher than 120 psi. The municipal code requires that property owners place pressure regulator valves on their side of the meter. He stated that the water in hillside areas begin in a storage reservoir located at the top of the hill, and that the bottom of the water column pressure is higher than further up the hill. He indicated that he has committed to the Muellers and the Van Dahlens to review these issues and report back to them. He indicated that he would make the same commitment to the Council, returning to the Council in a few weeks. He stated that staff will undertake the review of what would be the appropriate policy for operating the water system in difficult areas. He felt that it would be appropriate to refer this matter to the Utilities & Environment Committee to the extent that it may involve changes to the operation of the water system/investment in the system.

Mayor Kennedy requested that staff present the report to the Council's Utilities & Environment Committee before returning to the Council.

No further comments were offered.

City Council Action

CONSENT CALENDAR:

Action: *On a motion by Mayor Pro Tempore Tate and seconded by Council Member Sellers, the City Council unanimously (5-0) **Approved** Consent Calendar Item 1, as follows:*

1. **EMERGENCY EXPENDITURE FOR SEWER LINE REPAIR NEAR OAK HILL COURT – Resolution No. 5948**

Action: 1) **Adopted** Resolution No. 5948, Declaring the Need for Emergency Expenditure for Sewer Line Repair in the Jackson Oaks Area; and 2) **Approved** Funding in the Amount of \$30,000 for the Emergency Work.

ADJOURNMENT

There being no further business, Mayor Kennedy adjourned the meeting at 7:36 p.m.

MINUTES RECORDED AND PREPARED BY:

IRMA TORREZ, CITY CLERK

**CITY OF MORGAN HILL
JOINT SPECIAL AND REGULAR CITY COUNCIL
AND SPECIAL REDEVELOPMENT AGENCY MEETING
MINUTES – SEPTEMBER 21, 2005**

CALL TO ORDER

Mayor/Chairman Kennedy called the special meeting to order at 6:00 p.m.

ROLL CALL ATTENDANCE

Present: Council/Agency Members Carr, Sellers, and Mayor/Chairman Kennedy
Late: Council/Agency Member Grzan (arrived at 6:02 p.m.) and Tate (arrived at 6:03 p.m.)

DECLARATION OF POSTING OF AGENDA

City Clerk/Agency Secretary Torrez certified that the meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2.

City Council and Redevelopment Agency Action

CLOSED SESSIONS:

City Manager/Executive Director Tewes announced the below listed closed session items:

1.

CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Authority: Government Code Sections 54956.9(b) & (c)
Number of Potential Cases: 3

2.

PUBLIC EMPLOYEE APPOINTMENT

Authority: Government Code 54957
Consideration of Appointment: City Attorney
Attendees: City Manager, Interim City Attorney, Bob Murray

OPPORTUNITY FOR PUBLIC COMMENT

Mayor/Chairman Kennedy opened the Closed Session items to public comment. No comments were offered.

ADJOURN TO CLOSED SESSION

Mayor/Chairman Kennedy adjourned the meeting to Closed Session at 6:01 p.m.

RECONVENE

Mayor/Chairman Kennedy reconvened the meeting at 7:07 p.m.

CLOSED SESSION ANNOUNCEMENT

City Manager/Executive Director Tewes announced that no reportable action was taken in closed session.

SILENT INVOCATION

PLEDGE OF ALLEGIANCE

At the invitation of Mayor/Chairman Kennedy, Katherine Soult, a Live Oak High School student, led the Pledge of Allegiance.

PROCLAMATIONS

Mayor Kennedy presented Nathalie Averett with a proclamation declaring the week of September 17-23, 2005 as *Constitution Week*.

PRESENTATIONS

Human Resources Director Fisher announced that the employees of the City of Morgan Hill contributed \$8,400 in cash donations to the American Red Cross for Hurricane Katrina Relief efforts; \$2,500 of this amount being donated from the Police Officers Association (POA), \$2,000 from the Executive Team, and the balance from City employees.

CITY COUNCIL REPORT

Mayor Kennedy reported that he serves as an alternate member to the Valley Transportation Authority (VTA) Board of Directors. He stated that a lot is taking place at the VTA and that it is a time consuming process. He said that a half day workshop was held in San Jose last Friday; proceeded by a three hour policy advisory committee meeting and a two hour city council subcommittee meeting on the VTA's \$20 billion capital improvement program that goes out to the year 2033-2036. He said that this is an extremely ambitious program. He noted that in 2000, voters passed Measure A that earmarked funding for the Bart extension to San Jose and Santa Clara. It also earmarked funding for a number of projects including expansion of Caltrain services, additional light rail, expanded bus service, and expanded funding for the operations and maintenance of all VTA supplied services. With the downturn in the economy after 2001, he indicated that sales tax revenue dropped dramatically. This placed VTA in a tough financial situation; facing a deficit close to \$500,000 as they rely heavily on sales tax funding for operation and maintenance of all VTA projects as well as funding for Measure A projects. This deficit resulted in cuts in bus, light rail and other services. VTA has now balanced their budget and are at a point where they project a slight build up in their reserves. However, there is insufficient funding and that funds are not coming in at the rate expected to proceed with all projects included in Measure A. He stated that there is a proposal put forth by the Silicon Valley Leadership Group, the San Jose Chamber of Commerce, South Bay Labor Council and various other entities, to support additional funding in the

form of a ¼ cent sales tax measure to ensure that the Bart extension to San Jose and Santa Clara is built and move up other Measure A projects such as expanded Caltrain services. The ¼ cent sales tax would include additional funding for restoration and expansion of bus service as well as funding for operation and maintenance. It also includes additional funding for local governments to be used for road and street maintenance for locally serving highways and roads throughout the county. He stated that this proposal would require the approval of a ¼ cent sales tax that is proposed to be placed on the November 2006 ballot. He indicated that at the last Council meeting, the Council agreed to support and send a letter in support of the ¼ cent sales tax and additional funding to move forward with these projects. This letter was delivered to the Chair of the Board of Directors and to the General Manager of VTA, outlining the City's position. He stated that the letter focuses on support for Caltrain services, expanded services, double tracking for reverse commute, and moving up the airport people mover.

Council Member Carr stated that the Public Safety and Community Services Committee, consisting of he and Mayor Pro Tempore Tate, met this evening. One of the items discussed was an update on the skate/BMX park. He indicated that the skate park has reopened with repairs being completed in July 2005. He said that although the park is beyond its expected life span when the facility first opened, staff and the Youth Advisory Committee have worked on maintaining and updating the park in order to keep it open for use. The Committee also reviewed a resolution that will be considered at the League of California Cities annual conference. He stated that the Committee did not endorse said resolution and does not recommend the City support the resolution.

Council Member Sellers, as chair to the Community & Economic Committee, reported that there was an issue raised by a citizen regarding reimbursement for costs that might have been borne in a previous year(s) of development activity in the downtown area. He stated that the Committee reviewed this request and has had discussions with the community about looking at ways of dealing with this issue. He noted that with this year's application, the City was looking at providing resources to assist with downtown applications and is looking at providing housing in the downtown area. He felt the Committee has come up with a solution that would apply to this year's applications, within the parameters already set forth. He felt that it was important to note that the Committee has decided not to look at previous year's funding as part of the solution and has determined not to make any substantive changes. The Committee did not see a reason to bring the issue back to the Council. However, should the Council wish to revisit the request, the Committee would be happy to return with the item at a future meeting date.

CITY MANAGER REPORT

City Manager/Executive Director Tewes indicated that the Mayor/Chairman Kennedy called the regular/special Council/Redevelopment Agency meeting to order as well as a special City Council meeting that includes an item on consent calendar contained in the Council's supplemental materials to provide for emergency sewer line repair. He informed the Council and the public that staff will return with agenda item 20, application ZA-05-06: City of Morgan Hill-Mast Street PUD zoning district, at a subsequent meeting. He indicated that there was a problem with the public notice for this item, and that staff will need to correct it. Therefore, he recommended that the Council not consider item 20 this

evening. Regarding item 27, compensation, he indicated that the Financial Policy Committee will be conducting further review; returning to the Council in a few weeks.

CITY ATTORNEY REPORT

Interim City Attorney Siegel stated that he did not have a report to present this evening.

OTHER REPORTS

PUBLIC COMMENT

Mayor/Chairman Kennedy opened the floor to public comment for items not appearing on this evening's agenda.

Rebecca Van Dahlen informed the Council that she sent Council Members an e-mail. She indicated that she and the Mueller family have sustained water damage to their homes, on several occasions, as a result of high water pressure in certain areas in Morgan Hill. She stated that both the Public Utilities Commission (PUC) and the American Water Workers Association state that water pressure above 120 psi is not good engineering and is out of standard with their published materials. She indicated that they have water pressure coming into their homes above 200 psi, and that this has caused considerable damage. She said that in the most recent incident, a portion of her driveway has been damaged because a pipe burst between the meter box and the Muellers' home. She said that it would cost over \$10,000 to repair the damage. In working with the City on this situation, they have discovered that there are policies in affect that do not take care of residents. She felt this has been a known issue by the individuals charged with taking care of the City's water system, and that they are aware that there are homes that receive inordinately high water pressure. She said the City advises homeowners to install water pressure regulators if one has over 120 psi water pressure. She said that they have attempted to proceed with the recommendations of the City; installing water pressure regulators. She said that the last break at her home occurred between the meter and the pressure regulator valve. She stated that there is not much more she can do, as a homeowner, to correct the situation as it is the City who is regulated by the PUC. She said that she and the Muellers have each absorbed over \$10,000 in damages, out of pocket. Further, this does not address what it will do to them insurance-wise. She felt the City needs to resolve the situation so that homeowners are not unknowingly going to suffer from this kind of loss. She felt the proper location/installation of pressure regulators needs to be communicated to citizens. Should the City not take proactive measures, it forces homeowners to try and force the City to correct the problem. She stated that they are willing to absorb what has been lost thus far. However, she wants the City to come forward and correct the problem.

Mayor Kennedy read a statement regarding Family Day; a day to eat dinner with children. He indicated that the day earmarked for this program is Monday, September 26, 2005 and that it is sponsored by the National Center on Addiction and Substance Abuse at Columbia University, Nick at Night and others. He encouraged parents to have dinner with their children, as a family.

City Manager Tewes said that in light of potential litigation, his comments would be brief. He informed the Council that staff and he have had several conversations with the Van Dahlens and Muellers regarding the situation. He said that there are two issues: 1) the claim that may arise out of damage that occurred a couple of weeks ago; and 2) what is the appropriate public policy for operating a water system in a steep hillside area. Regarding the claim, he stated that it is staff's view that it is the responsibility of private property owners to make repairs on their side of the meter. He said that since the time he met with the Muellers and the Van Dahlens, the actual leak had not been uncovered. Therefore, the exact cause of damage was not known. It was indicated that the water pipe lay underneath a driveway that had been initially constructed with decomposed granite, and later asphalted. He stated that it is correct that in the hillside, and in many of the City's pressure zones, there is pressure higher than 120 psi. The municipal code requires that property owners place pressure regulator valves on their side of the meter. He stated that the water in hillside areas begin in a storage reservoir located at the top of the hill, and that the bottom of the water column pressure is higher than further up the hill. He indicated that he has committed to the Muellers and the Van Dahlens to review these issues and report back to them. He indicated that he would make the same commitment to the Council, returning to the Council in a few weeks. He stated that staff will undertake the review of what would be the appropriate policy for operating the water system in difficult areas. He felt that it would be appropriate to refer this matter to the Utilities & Environment Committee to the extent that it may involve changes to the operation of the water system/investment in the system.

Mayor Kennedy requested that staff present the report to the Council's Utilities & Environment Committee before returning to the Council.

No further comments were offered.

City Council Action

Mayor Pro Tempore Tate requested that item 4 be removed from Consent Calendar for a verbal update on the item.

CONSENT CALENDAR:

Action: *On a motion by Mayor Pro Tempore Tate and seconded by Council Member Sellers, the City Council unanimously (5-0) **Approved** Consent Calendar Items 1-3 and 5-15 as follows:*

1. **AUGUST 2005 FINANCE AND INVESTMENT REPORT - CITY**
 Action: Accepted and **Filed** Report.
2. **COMMITMENT TO ANNEX UNINCORPORATED ISLANDS LOCATED WITHIN THE URBAN SERVICE AREA**
 Action: 1) **Directed** Staff to Prepare Initiation of Two Additional Island Annexations under the Provision of Government Code Section 56375.3 (#16 and #17 on maps); 2) **Requested** that the County Provide the Necessary Mapping, Legal Descriptions, and Surveyor's Reports for the

*Amended List of Islands Identified in the Amended Chart; and 3) **Authorized** Staff, on Behalf of the City Council, to Request Minor Adjustments to the Urban Service Area Boundary and/or Sizes of Identified Islands, as Necessary, to Accommodate Annexation of the Islands in a Manner that is Consistent with LAFCO Regulations and Policies Regarding Annexation of Streets Adjacent to City Lands and Avoidance of Split Lines of Assessment.*

3. **UPDATE OF DESIRABLE INFILL STANDARDS**

***Action:** **Approved** Changes to City Council Policy CP 94-02, Establishing Desirable Infill Standards to Comply with Changes Under Measure C and Section 18.78.070 of the Municipal Code.*

5. **ADOPTION OF SPEED LIMITS IN ACCORDANCE WITH THE NEW ENGINEERING AND TRAFFIC SURVEY – Resolution No. 5944**

***Action:** **Repealed** Resolution No. 5421 and **Adopted** Resolution No. 5944, Dated September 21, 2005, Establishing Speed Limits on City Streets.*

6. **ACCEPTANCE OF BUTTERFIELD BOULEVARD AND SAN PEDRO AVENUE SEWER TRUNK PROJECT**

***Action:** 1) **Accepted** as Complete the Butterfield Boulevard and San Pedro Avenue Sewer Trunk Project in the Final Amount of \$333,455; and 2) **Directed** the City Clerk to File a Notice of Completion with the County Recorder's Office.*

7. **ACCEPTANCE OF PUBLIC IMPROVEMENTS FOR JASMINE SQUARE – Resolution No. 5945**

***Action:** 1) **Adopted** Resolution No. 5945, Accepting the Public Improvements for the Project Commonly Known as Jasmine Square; and 2) **Directed** the City Clerk to File a Notice of Completion with the County Recorder's Office.*

8. **AMEND REIMBURSEMENT AGREEMENT FOR UNDERGROUNDING OF OVERHEAD UTILITIES BY SHAW DEVELOPMENT (AKA: SHAW REAL ESTATE, INC.)**

***Action:** 1) **Appropriated** \$9,898 from Unappropriated Underground Utility Fund Balance (350); and 2) **Approved** Amended Reimbursement Agreement, Thereby Approving Reimbursement of \$56,938 to Developer for Undergrounding Overhead Utilities Along the South Side of East Dunne Avenue West of Walnut Grove, Subject to Review and Approval by the City Attorney.*

9. **INDOOR RECREATION CENTER PROJECT – AUGUST CONSTRUCTION PROGRESS REPORT**

***Action:** **Information** only.*

10. **APPROVE FIRST AMENDMENT TO THE SPORTS MANAGEMENT GROUP CONSULTANT AGREEMENT FOR INDOOR RECREATION CENTER**

***Action:** **Authorized** the City Manager to Amend the Sports Management Group's Consultant Agreement for an Additional \$10,000 for Updating Operating and Revenue Analysis, Equipment*

Specification and Drawings and to Assist the Staff in FF&E Procurement; Subject to Review and Approval by the City Attorney.

11. **ADOPT ORDINANCE NO. 1737, NEW SERIES**

Action: Waived the Reading, and Adopted Ordinance No. 1737, New Series, and Declared That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING A ZONING AMENDMENT TO ESTABLISH AN R-2 3,500/RESIDENTIAL PLANNED DEVELOPMENT ON A 7.06 ACRE SITE LOCATED ON THE SOUTHWEST CORNER OF THE INTERSECTION OF BARRETT AVENUE AND SAN RAMON DRIVE (APN 817-33-003) .

12. **ADOPT ORDINANCE NO. 1738, NEW SERIES, AS AMENDED**

Action: Waived the Reading, and Adopted Ordinance No. 1738, New Series, As Amended, and Declared That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING DEVELOPMENT AGREEMENT APPLICATION, DA-04-05 FOR APPLICATIONS MP-02-22 and MC-04-13: Barrett-Odishoo (APN 817-33-003).

13. **ANNEXATION APPLICATION, ANX-01-04: CLAYTON-MERLANO – Resolution No. 5946**

Action: Adopted Resolution No. 5946, Approving Annexation, with Corrected Map and Legal Description.

14. **FISCAL YEAR 2004-2005 YEAR-END BUDGET AMENDMENTS**

Action: Increased Fiscal Year 2004-2005 Budget Appropriations as Shown in Exhibit A.

15. **CARRYOVER OF ENCUMBRANCES FROM FISCAL YEAR 2004-2005**

Action: Received and Filed.

4. **STATUS OF DISCUSSIONS WITH THE NON-PROFIT SPORT GROUPS REGARDING OPERATIONS AND MAINTENANCE OF THE OUTDOOR SPORTS COMPLEX**

Assistant to the City Manager Spier informed the Council that a meeting was held on September 15, 2005 that included representatives from the Morgan Hill Youth Sports Alliance and the Morgan Hill Youth Sports League. She said that during the course of the meeting, it was indicated that the Coliseum Recreation Group's (CRG) proposal may not be moving forward. She informed the Council that the Youth Sports League group stated that they need to consider this item further and that they were not sure whether their operating budget could incur the extra cost of the lease of \$80,000-\$150,000 that they were hoping from the CRG. She stated that the Youth Sports Alliance group have indicated that they are interested in putting together a proposal and that they would be holding a board meeting in the next couple of weeks. They have offered to invite everyone to the board meeting. She indicated that the timeline is such that the Youth Sports Alliance is to submit a report by October 20, 2005 and that said

report would be included in the Council's October 26, 2005 agenda packet.

Action: *By consensus, the City Council **Received** the Status Report.*

Redevelopment Agency Action

CONSENT CALENDAR:

Action: *On a motion by Vice-chair Tate and seconded by Agency Member Sellers, the Agency Board unanimously (5-0) **Approved** Consent Calendar Items 16 and 17 as follows:*

16. **AUGUST 2005 FINANCE AND INVESTMENT REPORT - RDA**

Action: **Accepted** and **Filed** Report.

17. **LOAN TO SOUTH COUNTY HOUSING FOR VIA CIOLINO**

Action: **Authorized** the Executive Director to do Everything Necessary and Appropriate to Negotiate, Execute and Implement, Subject to Review by Agency Counsel, a Loan Agreement With South County Housing in an Amount Not To Exceed \$50,000 for the Demolition of Commercial Structures at the Southwest Corner of Ciolino Avenue and Monterey Road

City Council and Redevelopment Agency Action

CONSENT CALENDAR:

Action: *On a motion by Mayor Pro Tempore Tate and seconded by Council/Agency Member Sellers, the City Council/Agency Board unanimously (5-0) **Approved** Consent Calendar Item 18 as follows:*

18. **MINUTES OF SPECIAL AND REGULAR CITY COUNCIL AND SPECIAL REDEVELOPMENT AGENCY MEETING OF SEPTEMBER 7, 2005**

Action: **Approved** the minutes as written.

City Council Action (Continued)

CONSENT CALENDAR:

Council Member Sellers requested that item 19 be removed from the Consent Calendar as he would be recusing himself from this item. He stepped down from the Dais.

Action: *On a motion by Mayor Pro Tempore Tate and seconded by Council Member Grzan, the City Council, on a 4-0 vote with Council Member Sellers absent, **Approved** Consent Calendar Item 19 as follows:*

19. **PROGRAM SUPPLEMENT AGREEMENT NUMBER M007 FOR FEDERAL-AID PROJECT NUMBER 04-5152: PEDESTRIAN CROSSING IMPROVEMENT PROJECT – Resolution No. 5947**
*Action: 1) **Approved** the Program Supplemental Agreement with Caltrans for the Pedestrian Crossing Improvement Project; and 2) **Adopted** Resolution No. 5947, Designating the City Manager as the City Official Authorized to Sign the Funding Agreement.*

Council Member Sellers resumed his seat on the Dais.

City Council Action

PUBLIC HEARINGS:

20. **ZONING AMENDMENT, ZA-05-06: CITY OF MORGAN HILL-MAST STREET PLANNING UNIT DEVELOPMENT (PUD) DISTRICT AMENDMENT**

City Manager Tewes indicated that it was announced earlier that the Council would not be taking action on this item tonight, and that the item would be rescheduled for a later date. However, he recommended Council open the public hearing on the item.

Mayor Kennedy opened the public hearing.

Sam Laub, owner of the property located at 120 Mast Street, informed the Council that he was also speaking on behalf of the owner of 140 Mast Street. He noted that this item went to the Planning Commission with the wrong date noticed. Therefore, he felt the City has a procedural problem.

Interim City Attorney Siegel indicated that the item has been pulled from the Council's agenda so that a new public notice can be processed to make sure there are no errors in the public notice before the Planning Commission and City Council meetings. It was his belief that a public hearing before the Planning Commission would take place on October 11, 2005.

Mr. Laub informed the Council that he and his wife have been property owners in Morgan Hill since 1978. He indicated that they stuck with the City in tough times and good times. In addition, they were in agreement with the purpose of moving the existing facility out of the downtown area as the City is proposing to increase residential units in the downtown. It was his belief the use was going to be relocated in a wrong area. He felt there may be other appropriate places to locate the use other than the Mast Street area. In particular, movement would produce a structure in excess of twice the average height of buildings in the area. He noted that the Mast Street area has developed nicely and that the City has improved the other side of Church Street; removing older trailers from the area. He does not believe the use would fit in with the neighborhood. In addition, he felt some of the conditions would be difficult for the City to enforce, particularly the travel of heavy trucks on residential streets. Although the City's objectives were good, he did believe that relocation of the use in the Mast Street area was appropriate.

No further comments being offered, the public hearing was closed.

Interim City Attorney Siegel recommended the Council close the public hearing and that Mr. Laub's comments be incorporated into the Planning Commission's October 11 meeting and the City Council meeting minutes to follow thereafter. He indicated that a new notice needs to be prepared. Therefore, this hearing cannot be continued.

Action: *By consensus, the City Council **Took No Action.***

City Council Action

OTHER BUSINESS:

21. CITY OF MORGAN HILL EMERGENCY OPERATIONS PLAN

Lieutenant Sampson presented a brief update on the City's Emergency Operations Plan. He indicated that the Governor ordered September 20 as National Emergency Preparedness Day. He indicated that last February, the City hired a part time Office of Emergency Services Coordinator with training and experience to help set up and focus on the mission of disaster preparedness in the City. He informed the Council that it is the City's mission to facilitate disaster readiness; and to prepare residents, employees, businesses and special districts to minimize or reduce the loss of life, property, and environmental damage that may result from emergencies. He informed the Council that staff tries to accomplish this mission through public education, training and through information exchange with other local, state and regional emergency operation agencies. He indicated that the primary document the City will become familiar with is entitled the Emergency Operations Procedure Manual, once approved by Council. Once the manual is released, staff will provide opportunities for City staff to train and become familiar with the manual. He said that Hurricane Katrina has impacted the City and will cause changes to City operations. He informed the Council that the Emergency Operations Plan works under the incident command system, part of the State Emergency Management System (SEMS) standards. He said that it is the City's goal to provide additional training to first responders, city staff, volunteer disaster service workers, and the community emergency response team (CERT) within the next 6-12 months. He addressed the key aspects of the Plan and what citizens can do to prepare for a disaster.

Council Member Grzan noted that one of the greatest threats to the community is an earthquake. He inquired whether the new police facility would be able to sustain a severe earthquake.

Lieutenant Sampson indicated that the police facility is earthquake rated. He stated that should the facility be unable to sustain a severe earthquake, the City is prepared to set up a mobile emergency operations center. This mobile communication center provides the City with the capability of setting up anywhere in the field. He informed the Council that staff plans to conduct emergency exercises approximately every 3 months. He stated that staff participates in joint exercises with other local jurisdictions in Santa Clara County.

Council Member Grzan felt that any emergency plan should include quantifiable measures that would indicate how prepared the community is, should a disaster occur.

Lieutenant Sampson indicated the City is still early in the process in terms of mitigation, preparedness and response. Staff has not assessed the community's level of readiness and that staff still has some steps to take before being able to assess community preparedness.

Mayor Kennedy stated that he was in office when the City activated the emergency operation center in 1997 when there was flooding in the community. He indicated that the press was calling him and other elected officials to inquire what was taking place. He inquired whether the Plan addresses the role of the Mayor and council members during an emergency.

Lieutenant Sampson indicated that the role of the Mayor and council members is addressed in the Plan. He stated that the Mayor and the Council will have an opportunity to be trained as it is an important role elected officials play.

City Manager Tewes distributed copies of the Council's adopted policies that talks about the role of the City Council. Under the City's Municipal Code, the City Manager is the emergency management officer. However, the City Council has a role to play during an emergency. The Council has official duties to perform in the event it is necessary to declare a state of emergency that must later be confirmed by the City Council. The Council also has important responsibilities on an intergovernmental level; working with other agencies. He confirmed that these duties are set forth in the Plan and is something that staff would like to help train and conduct an exercise with Council members

Mayor Kennedy opened the floor to public comment. No comments were offered.

Action: *On a motion by Mayor Pro Tempore Tate and seconded by Council Member Sellers, the City Council unanimously (5-0) **Approved** and **Authorized** Distribution and Use of the Morgan Hill 2005 Emergency Operations Plan.*

Council Member Sellers recommended that agenda item 24 be moved up in light of the number of police officers in attendance.

Action: *It was the consensus of the City Council **to consider** Agenda Item 24 at this time.*

24. COMMUNITY ORIENTED POLICING SERVICES (COPS) UNIVERSAL HIRING PROGRAM GRANT

City Manager Tewes indicated that several years ago, the City of Morgan Hill and many other California cities, applied for the opportunity to receive COPS grants, a federal program that would provide financial support to hire additional police officers over and above the existing level of staffing to engage in community problem solving activities. Chief of Police Galvin and he felt that this was a good idea in 2002 and that the City applied for the grant. He indicated that the City has recently been advised that it is one of four communities in California to be awarded a grant under this program. He informed the Council that this program was established under a prior federal administration and that the current administration has not been supporting the program, nor increased funding. However, there is still some

grant monies available. He said that there is no question that the City of Morgan Hill and the police department could benefit by the addition of sworn officers. However, the question is to what extent the City can afford this in light of the sustainable budget strategy. He stated that the Council has already identified a series of steps to cut back on the City's budget, noting that many of these cuts have taken place in the police department. He said that the next step is to identify new revenue sources, on an ongoing basis, to meet what is estimated to be a \$1.3 million ongoing operating deficit. He stated that the federal government is offering to support up to two additional officers at \$150,000 to be allocated over a three-year period in declining amounts. As a grant condition, the City would be required to retain the two additional officers at 100% City cost for a fourth additional year. He noted the staff report identifies the four-year cost to the City at \$790,000. He informed the Council that in the supplemental memorandum, the Chief of Police indicates the City could benefit from additional officers and ways the officers might be used. To the extent the City has additional officers, the amount of overtime expenses could be reduced by having flexible training schedules and opportunities for special assignments, etc. He stated that neither he nor the Chief of Police are convinced that only two additional officers are likely to have a significant impact, but will reduce some of the impacts in overtime costs.

Mayor Kennedy inquired about the ability to save in overtime costs should the City proceed with the COPS grant.

Chief of Police Cumming indicated that last year, the City spent 49% in backfill overtime; filling in for individuals absent (e.g., approximately \$150,000 per year). He said that it would be hard to predict the actual cost of overtime, in detail.

Mayor Kennedy noted that the total cost the City would need to come up with in four years is approximately \$790,000. Dividing this amount by four years would equate to approximately \$197,000 per year. Subtracting \$150,000 from this amount would result in a net cost of approximately \$50,000 per year, in a best case scenario.

City Manager Tewes informed the Council that staff believes that two additional police officers may help reduce overtime costs, but would not eliminate the need for backfill.

Chief of Police Cumming stated that the value of adding two additional police officers would give the City two additional officers in the patrol division and would cut some of the backfill overtime. Two additional officers would provide additional staffing in the field. He informed the Council that police officers work 12 hour shifts and that there is no overlap in time and no opportunity to have officers be briefed and receive important information. Having extra officers would allow scheduling officers to be on the street during shift changes. He noted the City lost three police officers and that one of the issues identified for leaving the department was low staffing levels. This places the City in a need to hire and train replacement officers at a cost of \$30,000-\$40,000. He felt that having a larger police force would result in savings.

Mayor Pro Tempore Tate noted the City has a low ratio of 1 police officer per 1,000 citizens. The grant would improve the ratio a little, but would not get the City close to where it needs to be, county-wise or meet the state average.

Chief of Police Cumming said that some police departments have at least 1 police officer per 1,000. If the City had this ratio, the City would have 36 officers on staff. Some cities chose to apply a standard of 1.5 or more police officers per 1,000. He stated that there is no state or national standard, but these are figures often used. He felt that 1 police officer per 1,000 is good, but felt the City needs more than this to properly staff the City. Should the Council approve the grant, it would bring the City up to 35 police officers.

Council Member Grzan indicated that when he ran for his council seat a year ago, council candidates had an opportunity to meet with staff and the Chief of Police. At that time, he asked Chief of Police Cumming whether he felt the City was adequately staffed. Chief of Police Cumming responded that it was his belief the City was adequately staffed. He inquired whether the Chief still believes the City is adequately staffed.

Chief of Police Cumming indicated that his response was wrong at the time. As he was a relatively new Chief of Police in Morgan Hill, he did not have a correct assessment of the department. It was his belief that the police department is not adequately staffed. It was also his belief that this is a safe community, but that there are indications that things are changing. He noted that property crime has climbed. He felt he needs to pay attention to crime figures and prepare for the future. He said that arrests are up 12% this year; noting that there are criminals and individuals on parole in Morgan Hill. However, there is good news in that violent crimes, homicides and sexual assaults are low.

Mayor Kennedy inquired as to the timing needed to make a decision about the grant in the context of the community conversation to take place with the public; inquiring what services citizens would like to see supported/continued.

Chief of Police Cumming indicated that November 14 is the deadline to submit the grant application. He said that he has commissioned a post workload study for the department that will be completed by December. The study, to be prepared by an independent source, will indicate whether the City is adequately staffed and provide the City with an indication of what it needs to look for in the future. He acknowledged that timing for the grant application is not good.

Mayor Kennedy requested the City Manager address the timing of the community conversation.

City Manager Tewes noted the Council has adopted, as part of its sustainable budget strategy, a suggestion that the City have an extended conversation with the community about what types of services they value and how they should be paid for in light of the City's on going deficit. He indicated that the City has retained the services of a consulting firm with experience in civic engagement issues. He confirmed that this weekend, at the Taste of Morgan Hill, the City will have a booth and invite individuals to talk to the City about the conversation. Staff will provide citizens with background information and talk about the rest of the process; noting that the process will include two extended 8 hour sessions (focus groups). A random sampling of citizens will be invited to come to the City and spend up to 8 hours with staff in a facilitated discussion. He said that citizens will be asked to act as citizen leaders on what is best for the community, not what is best for households, and to hear what their

fellow citizens think about these issues, learn about the consequences of various options, and come to a conclusion. Based upon the group sessions, the City's consultant will complete a workbook. The Council will find out what information is needed and how to present the information during the focus group sessions. He stated that there will be many opportunities, lead by council members and senior staff, to meet with smaller community groups for an hour or two in facilitated conversations. It is the expectation of the Council's Financial Policy Committee that the City would conclude the process in the later part of spring so the Council can make judgments about what, if anything should be placed on a November 2006 ballot.

Mayor Kennedy felt the need for additional police officers is important and real. However, he would like to have community buy into this decision, somehow. Perhaps, the City could ask citizens, at the Taste of Morgan Hill, if they support funding/additional revenues that would support the grant. He felt the Council needs to know if citizens support funding additional police officers.

Mayor Pro Tempore Tate stated that the purpose of using the Taste of Morgan Hill is to educate the public about getting involved in the conversation and participating in an extended dialogue; not asking for opinions or jumping to conclusions. By asking yes or no questions, the City would be asking for a quick opinion. He did not believe this is where the Council was trying to head with the community conversation.

Council Member Carr noted that it was indicated that in 2002, staff felt it would be a great idea to apply for the COPS grant. He requested that staff explain why it believed it was a good idea to apply for the grant in 2002 and what is different today.

City Manager Tewes informed the Council that this is not the first time the City has received a COPS grant. In prior years, the City received a much higher share of the cost from the federal government than is being offered this time. In 2002, at the time the City applied for the grant, staff was mindful that the community was continuing to grow. At that time, the City achieved a staffing level, in the police department, that occurred prior to the major layoffs of the early 1990s. What has happened, since 2002, is that the economy at the state, local and national levels have impacted the City's costs and affected its revenues. He indicated that the City is highly dependent on sales tax revenues and that sales tax revenues are a function on how many individuals are at work and spending money. He noted that Silicon Valley has suffered a job loss of 200,000 and has only slowly started to regain from its peak employment. This has significantly impacted the City's sales tax revenue. Other impacts are associated with the State of California being highly dependent on the Silicon Valley tax base. When this went away, the State came up with a number of strategies to shift monies away from local government to support stated opportunities/responsibilities. As a result of this, the City lost even more revenue. He said that the national economy has affected the City in terms of retirement costs; noting that retirement costs are dependent upon how well investments are doing at the Public Employee Retirement System (PERS). He noted that for three straight years, PERS lost money in the stock market attributable to the national economy. It has been identified, in the sustainable budget strategy, that there would be an ongoing gap between the amount of resources available and the amount needed to maintain existing staffing levels. He said that as the community grows and things change, including police work, existing staffing levels will not be able to provide the same service levels to a growing population. In order to sustain the

existing staffing level, there will be an ongoing need for new revenue in the amount of \$1.2 million per year. In this report, staff has updated its forecast to suggest that this amount would be \$1.3 million per year. If the City accepts the COPS grant, there would be an ongoing revenue need of \$1.5 million per year. It was his understanding that in 1989, the City had 1 or 2 more officers employed than it has today.

Mayor Kennedy opened the floor to public comment.

The following individuals spoke in support of the COPS grant to assist current community public safety needs: Mark Brazeal (two police officers would not solve staffing issues, but is a step in the right direction. Would not accelerate future needs, but helps meet current needs. Police officers are getting tired and requested Council make public safety a priority for this community); David Swing (spoke on behalf of the POA – reinforced that the grant is for present needs, noting that the City has a shortage of police officers and has presented many different concerns; including officer safety and quality of service that can be provided to the community); David Ray (president of POA – concurred that the need for additional police officers is now. In 1990, the City employed 34 sworn officers with a population of approximately 24,000. The ratio was approximately 1.4 police officers per 1,000. Currently, the population is at approximately 36,000 with 33 sworn officers. This equates to .9 officers per 1,000. This places the City at the lowest officer to population ratio in the county with a county average being at 1.5 per 1,000. In order for Morgan Hill to get to this staffing level, the City would need to hire approximately 15 officers. He concurred that there was approximately \$300,000 in overtime paid last year. Half this amount was based on staffing shortages. He was not suggesting that hiring two police officers would solve the overtime pay. However, it would be a step in the right direction and would help reduce overtime. Without adequate public safety services, none of the other city services would succeed. If the community is not protected and is not safe, nothing else would matter. In looking at the grant and trying to allocate funding, he recommended the Council look at where it is spending money and reprioritize them); Donna Macknight (representing the Community Service Officers Association, indicated that all members are in support of the COPS grant; officer burnout results in mistakes and injuries, a big liability to the city. She addressed how other general fund monies are being spent); Michael Brookman (inquired what the City would do when police officers refuse to work overtime); and Gary Cupps.

No further comments were offered.

In response to Council Member Grzan's question, Chief of Police Cumming indicated that the study has just begun, would be completed in December 2005 and cannot be accelerated.

Council Member Sellers expressed concern with the current state of the police department. He felt the needs of the department are becoming more and more acute and that the City is not affectively addressing them. He felt it made sense to move forward with the COPS grant this evening. He felt the City fortunate to have dedicated police officers, a low crime rate, and the ability to use RDA funds to enhance recreational programs and other activities that help contribute to a lower crime rate. He said that he is familiar with the averages in police departments throughout the region. His biggest concern today has to do with organizational effectiveness. He stated that it is difficult to maintain the kind of public safety organization one wants, in the long term, with a staffing level that is not adequate to meet the

needs. He said the City is starting to see a strain in the organization and that it would only get worse. He stated that it was the responsibility of the Council to make the right fiscal decisions. He felt it would be irresponsible for the Council to state this is a great idea and accept the money to do the right thing for the police officers and the community; figuring out how to get the money later. He felt the Council needs to articulate where the funding will come from and how it will set the priorities such that it can pay for them. In the short term, he felt it would be appropriate for the Council to consider some of the City's reserves. He felt the Council's reserve policy is higher than it needs to be. Therefore, he felt it would be appropriate to lower the City's reserve. He noted that this would only give the City a few years and that the City has a longer term problem that needs to be addressed. He stated that citizens have elected officials who make decisions and are held accountable. He recommended the City take this issue to the community and ask if citizens feel the city is at an appropriate police officer ratio or whether they want to increase the ratio to an appropriate level. He did not believe the community conversation would be harmed by accepting the grant and moving forward with two new officers. He felt the City would be enhanced because it would show good fiscal management, acting on the right priority and being creative in the use of federal and other funds. He recommended Council acceptance of the grant and move forward with the officer positions; looking at the longer term decisions that will be crucial to the City's future.

Mayor Kennedy stated that it was his belief that in order to get community support for funding, the City needs to do a good job. He felt the police department needs to continue to do a good job if the City is going to have any chance of building community support for additional funding. He expressed concern with the comments made this evening about the stress being placed on police officers and families. He was confident the City would be able to find ways to close the budget gap and move forward. He urged the Council to support the grant.

Mayor Pro Tempore Tate stated that he supported the grant as well. He felt the City needs 21 additional police officers to get to a 1.5 per 1,000 ratio and meet the County's average. He noted that adding two officers will not meet the 1 officer per 1,000 ratio. He said that when he ran for public office 8 years ago, he stated that public safety was a priority to the community. He wanted to make sure the Council concentrates on this priority. He also expressed concern about the City's fire coverage as well. In his conversations with the Chief of Police today, he was convinced that this is the right thing to do, no matter what other cuts the Council has to look at, as public safety is the number one priority.

Council Member Carr stated that he and Mayor Pro Tempore Tate serve on the Public Safety and Community Services Committee and that they have begun the dialogue about police and fire services. He stated that it is clear to him and should be clear to the community that the City is doing an amazing job. He noted the Council has heard from the Chief of Police and other speakers this evening that the police department is understaffed; and yet, the crime rate is low. He felt the City was doing a tremendous job with the resources available. Further, supporting the grant would be a fiscally prudent approach. Accepting the grant would make a statement to the community, as the City launches the public dialogue, that the Council is setting public safety priorities. As other needs come up throughout the year, the Council needs to be mindful of the priority it is setting this evening as there may be times the Council may have to say "no" to other items that are not number one in terms of priority.

Council Member Grzan noted that the Chief of Police stated a year ago that the police/citizen ratio the City has might be adequate to address the community's needs. However, the Council has heard something different this evening. He noted the City does not have the problems the City of Salinas, San Francisco and others have as the City has a low crime rate. He stated that he has been an advocate for public safety and that the police department can count on his support for this grant. However, he did not believe the grant will alleviate the overtime costs or alleviate the stress being experienced. By taking this action, the City will incur a \$1.5 million annual deficit. Knowing this, he did not believe the Council can vote for facilities or other projects that cannot sustain themselves. He noted that revenue resources are not there and that he was not optimistic that the community will come forward to cover the \$1.5 million debt, or an additional \$1.7 million to add additional services to the community. It was his belief the Council will have difficult choices to make, and that it has a year to talk about these choices. He noted that the City is about to build an indoor recreation center (IRC) with the idea that it will sustain itself. He did not believe that it would sustain itself and that he sees the IRC adding additional debt; causing additional stress to the City Manager and staff on how the City is to balance the budget. He felt the Council will have to make difficult decisions on how to strive for a balanced budget.

Council Member Sellers said that before proposition 13, many jurisdictions had the opportunity to figure out what their service costs would be and set the tax rates accordingly. However, this is not done anymore. He noted that many communities do not stop to state what the various services cost the community, and stated that the City will be embarking on this conversation. He felt it was important for the City to be honest with the public from day one to state what services cost the community.

Action: *On a motion by Council Member Sellers and seconded by Mayor Pro Tempore Tate, the City Council unanimously (5-0) **Approved** Acceptance of a Federal Grant Which Would Provide \$150,000, or 16% of the Costs of Two Additional Police Officers Over the Next Four (4) Years.*

22. WATER RATES

Director of Finance Dilles presented the staff report on water rates and surcharges for perchlorate cleanup over a five-year period of time, beginning in 2003 and ending in January 2007; indicating that the report before the Council was presented to the Utilities and Environment Committee last month. He said that water rates will increase by 2% in January 2006 and another 2% in January 2007. The perchlorate surcharge increase would be 5% in January 2006; raising the rates from 10% to 15%. Should another rate surcharge adjustment take place, it would result in a 20% surcharge in January 2007. Staff recommends Council take no action to change the scheduled increase in rates in January 2006. He informed the Council that the Interim City Attorney is currently aggressively pursuing collection from Olin in order to recover all costs. He noted that the resolution before the Council indicates that should any amounts be recovered from Olin or other sources, those amounts will be credited back to the City's rate customers. He indicated the City has collected almost \$800,000 from Olin Corporation, but that there are over \$5 million in total costs over the entire period projected through June 2009.

Council Member Grzan stated that he serves as the Chair to the Utilities & Environment Committee and that staff has convinced him that it would be prudent to proceed with the current projected cost increases

as scheduled to meet the ongoing costs for perchlorate cleanup. Therefore, the Committee recommends and support staff's recommended action that the Council takes no action at this time.

Mayor Kennedy opened the floor to public comment. No comments were offered.

Action: *On a motion by Council Member Grzan and seconded by Mayor Pro Tempore Tate, the City Council unanimously (5-0) **Took No Action** Regarding Water Rates or Perchlorate Surcharges, thus Keeping the Adopted Series of Rate Adjustments.*

City Manager Tewes indicated that water rates cannot be used to finance other City services, no matter the priority. He said that the fund balances in the water department are not available to support other than water related issues. The same is true with Redevelopment Agency funding. He said that staff has established separate funds and separate accounting activities because it is the law. He indicated that the City's accounting is complex, it is staff's job to try to make it as understandable as possible, and that the City is constrained by law and good accounting practices as is seen with the water rates.

23. FISCAL YEAR 2004-2005 GENERAL FUND YEAR-END ANALYSIS

Budget Manager Thai presented the report on the FY 2004-05 General Fund year-end financial analyses. He said that the general fund revenues totaled \$17.7 million year end expenditures, and encumbrances totaled \$19.3 million; leaving the City with a \$1.5 million deficit. He clarified the impact of the aquatics center. He indicated that the net loss from the aquatics center is \$406,000. He said that this is a different amount than what was presented to the Council on August 8 where staff was projecting a net loss of approximately \$357,000. He indicated that the difference resulted in receiving an additional \$10,000 in revenue, approximately \$40,000 in additional expenses and another \$20,000 in internal service costs charged to Fiscal Year 2004-05.

Council Member Sellers indicated that staff referenced the aquatics center and the \$406,000 deficit. He noted that staff indicated that there were services and expenses that resulted in the increased deficit. He inquired whether there were significant amounts of these items that could potentially be realized in subsequent years. Did the City purchase additional resources that would not cost the City in terms of costs next year (e.g., purchase of merchandize that will be sold next year, etc.)?

Budget Manager Thai indicated that there were no additional savings in Fiscal Year 2005-06.

City Manager Tewes stated that the additional costs being referred to by the budget manager is the difference between the expenses that were in the financial system on July 15, 2005 and the additional invoices that were paid subsequent to July 15 that included some items which, under accounting rules, are not treated the same as inventory. However, these items will be used after June 30, 2005. He indicated that the difference between the estimates presented to the Council on August 3 and today's final numbers is attributed to the invoices paid and new revenues realized subsequent to July 15.

Council Member Sellers indicated that he was not interested in looking backwards as much as he was looking into this fiscal year and getting a sense that the City does not replicate last years deficit. He

noted that it was stated that a significant amount of this debt was incurred through bad management decisions. He noted that the City is moving quickly to rectify the situation. He wanted to know if the City has other things in place to help the situation.

Mayor Kennedy opened the floor to public comment. No comments were offered.

City Manager Tewes informed the Council that these are the final budget numbers which are being submitted to the City's auditors. He said that the City receives an independent audit of its expenses. The auditor provides the Council a certification that the financial statements fairly state the City's financial condition, and that the City has complied with appropriate laws. He stated that this is the report that will be submitted to the auditors for review.

Action: *By consensus, the City Council **Received** and **Filed**.*

25. CYSA LEASE EXTENSION AT OUTDOOR SPORTS COMPLEX

Special Assistant to the City Manager Spier presented the staff report, indicating that at the City Council meeting of July 27, 2005, staff was directed to pursue a list of actions. One of the actions was for staff to pursue a CYSA lease extension until June 2006, looking at extending the lease out to December 2006 if it worked within the City's design plan for the outdoor sports complex. She informed the Council that since that time, staff has met with the new chief executive director for CYSA, Frank Marotto who has indicated that they would like to extend the lease; preferring a longer time period. However, the one year extension would work for CYSA. She stated that CYSA has indicated that in order for them to stay, they would like to see some modifications to the existing facility. It was staff's hope that the City could combine phase one or the master plan with some improvements. She informed the Council that CYSA's priorities are the parking lot improvements at an estimated cost of \$15,000-\$20,000 for rock to fill the potholes. She indicated that at a minimum, the City would need to install a temporary drain at a cost of approximately \$2,000. A temporary drain would drain water out to Condit Road so that it is not sitting and creating more potholes. Additional improvements would result in approximately \$30,000. She clarified that the lease extension would be contingent upon any modifications the City would agree to install. She said that CYSA needs a minimum of eight fields in order to stay within the lease term and eleven fields would be needed to enter into a long term lease. She did ask CYSA as to the impact if there was to be development of the fields in San Bonito County. CYSA responded that they do not believe the fields in San Bonito County would impact them as they are growing separately and developing their own clientele. She requested Council direction as far as the lease is concerned, whether the Council is willing to commit to funding modifications, or whether the lease is to continue as it exists today. She indicated that CYSA understands the City's concept plan and the master plan for the outdoor sports complex and that they are willing to work with the City.

Mayor Kennedy inquired whether improvements could be accomplished from lease payments.

Ms. Spier indicated that one of the suggested ways for paying the requested improvements is to forego the lease payments. She said the lease requires CYSA to improve the parking lot. If the City agrees to provide improvements to the parking lot, it would be at a cost of approximately \$30,000. She felt that

CYSA may be able to install the improvements at a different rate. She informed the Council that CYSA has indicated a willingness to discuss installation of improvements.

Mayor Kennedy felt that it may be a better solution to waive the fees and allow CYSA to install the improvements.

City Manager Tewes said that should the City decide to make an investment in the facility, Redevelopment Agency funds could be used, as appropriate and lawful. If the City waives fees, the City would be waiving general fund revenues.

Mayor Kennedy opened the floor to public comment.

Sunil Patel, owner of Microtel Inn and Suites located on Condit Road, stated that he has been in conversation with David Dworkin who has organized some of the hotel owners. He said that hotel owners are encouraged with the extension of the lease with the soccer community. However, they are concerned about the long term direction of the area in terms of the soccer fields. He informed the Council that hotel owners receive a significant amount of their revenue from soccer tournaments. He said that since 2001, there has been an over capacity of hotel rooms in Morgan Hill and stated that a majority of the hotels in Morgan Hill are hurting. He felt that hotels and the City of Morgan Hill are in partnership as every guest that is brought in results in a 10% transient occupancy tax for the City's general fund. He noted that Morgan Hill is not a destination city. He said that the soccer use is a significant revenue driver that will be lost should the soccer fields be lost. He informed the Council that hotel users are not opposed to a multi use sports facility, but believe that it has to be a revenue generator that brings in guests from outside the city. If the facility is to be used solely by the residents of Morgan Hill, revenues will be lost. He informed the Council that his room rates range from \$59-\$79 per room, per night, plus tax and that he has 60 rooms in his facility.

Jeff Bernadini, speaking on behalf of the Morgan Hill Youth Sports Alliance, stated his support of the lease with CYSA. He said that he has met with representatives of the sports group. He met with Bob Morris, representative of the Morgan Hill Youth Sports League which represents Pony Baseball, soccer, football and volleyball. They discussed how they can reach a compromise and come toward a solution; throwing their support behind the outdoor sports complex. However, they could not come to an agreement. The Youth Sports Alliance agreed to rotate the presidency among the sports groups as a compromise, but this did not work. The Youth Sports Alliance suggested that sports groups form their own league/board and be in charge of scheduling and that the Alliance would handle all the maintenance and operations. This was not agreed upon. He said that both groups are still trying to reach a compromise. He said that at another meeting with the City that included both sports groups, it was announced that the Coliseum Recreation Group (CRG) would no longer be in the formula. He said that the Youth Sports League model for funding the operations and maintenance of the outdoors sports complex dependent heavily on CRG. Without CRG, pony league baseball has written a letter to him and the City stating that they are no longer interested in taking on the operations and maintenance of the outdoor sports complex. He does not know what discussions are taking place with soccer, football, and the volleyball groups. It was his hope that the issues can be resolved. He said that the Youth Sports Alliance is ready to move forward without CRG and that a proposal will be submitted on October 20 and

presented to the Council on October 26. He said that based on current information, the Youth Sports Alliance will need to reevaluate its focus with the outdoor sports complex. The focus is such that the outdoors sports complex has to be self sufficient and pay for itself. He said that the Youth Sports Alliance is starting to move toward this direction. He informed the Council that they would like to talk to CYSA to see if they can use the facility on the weekends for tournament play; leaving the fields available during the week for the community's youth. He felt the City's youth should be the priority and be allowed to use the fields; not an outside agency making money from City property.

No further comments were offered.

Council Member Sellers felt the City needs to install the drainage improvements using Redevelopment Agency funds rather than general funds not to exceed \$30,000.

Action: *Council Member Sellers made a motion, seconded by Mayor Kennedy, to: 1) **Authorize** the City Manager to Extend the Lease Agreement with CYSA through December 2006; 2) **Appropriate** \$30,000 in Redevelopment Agency funds for Parking Lot and Drainage Improvements at the Outdoor Sports Complex site; and 3) **Direct** staff to make such adjustments in the budget, as necessary.*

Council Member Carr stated that he was hesitant about spending any more money on this facility. He supports appropriating \$2,000 for drainage improvements as it would protect an investment the City has made. However, he noted that the rest of the facility would be torn up soon. He recommended the City take a quick path in moving forward with the outdoor sports facility rather than spending \$30,000 in temporary improvements that would be torn out at a later date. He expressed concern with continuing to nickel and dime the Sobrato Soccer CIP budget. He noted the City is receiving several requests for this funding. He felt the City would be wasting this funding source and not realize what the Council spent it on if it continues to allocate funding to other projects. He stated that he was hesitant in spending any more money and that he did not know what the \$30,000 would get the City.

Mayor Kennedy stated that he has a similar concern; however, he noted that the parking lot has been a problem for several years. He felt that CYSA soccer tournaments bring in sufficient revenues and vehicles to justify the expenditure. He stated that he was willing to authorize the use of Redevelopment Agency funds for this purpose and that it was a worthwhile expenditure.

Council Member Grzan also shared Council Member Carr's concerns, but felt that it was important to maintain the City's infrastructures and parking lots.

Council Carr noted that the parking lot and the fields are solely being used by the CYSA group. He felt that CYSA should pay for the improvements as they are not paying much for the lease. He noted that it is being suggested the City credit their lease and that they pay for the improvements with lease savings. This would result in the use of free fields by the CYSA group and the City is repairing a parking lot that would be torn up soon, if the City follows the master plan for the property to move forward. He noted the City invested over \$7.2 million in purchasing the property as the Council kept hearing complaints that Morgan Hill youth were not using these fields. He stated that this is a regional complex, drawing

regional tournament play. He acknowledged that these tournaments may help the hotels, but that the community's youth are not able to use the fields. As long as the City is unable to move forward with the outdoors sports complex, he stated his support with a continued lease agreement. However, he did not believe the City should spend additional money for CYSA's benefit. He felt that it should be CYSA's responsibility to grade the parking lot so that they can use it. If the City needs to install a drainage system to protect the improvements already made for the aquatics center parking lot, those would be improvements for the public good and should be made.

Mayor Kennedy stated that CYSA invests a significant amount of money to maintain the soccer fields. He noted that it has been indicated that CYSA spends approximately \$150,000 in maintenance costs that results in a net loss of \$40,000 per year.

Council Member Carr argued that his son and he do not get to use the fields. He felt that the CYSA organization is already receiving a benefit by the use of the fields. He did not believe that CYSA could claim an investment in City property that is not being used for the public good.

Mayor Pro Tempore Tate agreed with Council Member Carr that the City wants to get use of the fields. However, he did not believe the City has a defined master plan for use of the fields by the community's youth. He noted that CYSA is looking at seeing if there is a way to share the use of the fields where the community can use the fields during the week and CYSA uses the fields during the weekend. The question is what the City will do in the interim until the Council can get the master plan defined and in place. He felt that allowing CYSA use of the fields would be in the best interest of the City, from an economic development standpoint.

Mr. Patel informed the Council that there are 400 motel rooms along Condit Road. He indicated that soccer tournaments bring in \$2.3-\$3.3 million per year to motel and that this equates to approximately \$330,000 in transient occupancy taxes to the City's general fund. He felt that the \$30,000 investment to improve the parking lot is a small investment.

Council Member Sellers agreed with Council Member Grzan that it will take longer to move forward with an outdoor sports complex. He felt that the economic benefit could be used to justify some of the funds going toward parking lot improvements. He noted that the fields are being used regularly and that the transitional use would be easier. The City will have an infrastructure that will have some residual impacts on economic development as well as the community's youth. He shared the concern that the property was not purchased to be used by 90% of youths residing outside the community, but that he wants to keep the momentum going with the interim use.

Council Member Grzan inquired whether CYSA would install the improvements should the City decide not to install the improvements.

Ms. Spier informed the Council that CYSA has indicated that in order for them to stay, the parking lot needs to be improved. If it is not improved, CYSA may locate to another facility. She said that it has been indicated that CYSA has fields in Sacramento and Bakersfield and that there would be an impact to the other locations. However, they would consider moving their tournaments to other locations. As their

lease was about to expire in a month, CYSA has a contingency plan in place as to where they will move, but that their plans were not shared with staff.

City Manager Tewes noted that a couple of weeks ago when the Council considered the master plan for the facility, a number of speakers made representations about their views about economic impacts. He reported to the Council, at the time, that staff has asked the Chamber of Commerce for some data from the hotels. Staff would overlay this data with material from CYSA about how many weekends a year and how many fields they are actually using. He informed the Council that staff has used the data and that staff has prepared a preliminary analysis that was sent back to the Chamber of Commerce. Staff has asked the Chamber of Commerce to review the analysis with the hotel industry. He said that staff made a number of assumptions that were aggressive and that staff has come up with a number that is less than some of the numbers presented to the Council this evening. He said that although the number is significant, it does not support a \$7.6 million investment in the land.

Mayor Kennedy indicated that the soccer complex has been a destination and has brought thousands of individual's to the community's hotels, restaurants and businesses. He felt that this would be a small investment to continue this for the next year.

Council Member Carr inquired whether the \$30,000 maximum contained in the motion includes funding for reseeding and water.

Ms. Spier stated that in speaking with Mr. Marotto, he came up with a list of priorities important to CYSA in order to remain. She noted that this is the only complex CYSA controls as far as scheduling. Therefore, this is the only complex that they have to maintain and operate. She indicated that the priority for CYSA is improvements to the parking lot. Reseeding would be paid by CYSA. Regarding the water cannon, she said that CYSA is piecemealing purchase of equipment based on the duration of the lease. She clarified that the \$30,000 would pay for parking lot and drainage improvements.

Council Member Carr recommended that the motion be flexible enough so that the City can see longer returns based on what the City may see as a future use of the site. He felt the water cannons would be ideal as the City would use them for future uses. However, he noted that this was not the first priority for CYSA.

Ms. Spier said that there were discussions about investing in water cannons. However, without knowing who will operate and maintain the fields and whether CYSA would use the cannons is a difficult question to answer. She said that the City parks department looked at the fields and noted that the grass is in better shape than any of the City's park. However, maintenance works to the advantage of CYSA. She indicated that CYSA's priorities were the drainage improvements, parking lot, water cannons and reseeding. She concurred with the priorities.

Vote: *The motion carried unanimously (5-0).*

26. SANTA CLARA VALLEY HABITAT CONSERVATION PLAN/NATURAL COMMUNITY CONSERVATION PLAN (HCP/NCCP) REVISED NON-VOTING

**LOCAL PARTNER AGREEMENT, PLANNING AGREEMENT, AND
APPOINTMENTS TO GOVERNING BODY LIAISON GROUP**

Director of Community Development Molloy Previsich presented the staff report, indicating that on August 3, the Council voted to join the inter jurisdictional planning effort to prepare a habit conservation plan and natural community conservation plan. The Council committed funding toward this effort from various impact funds, community development fund and general plan update funds. She requested the Council authorize execution of the two agreements and that the Council decide whether to appoint one or two representatives to serve on the liaison group.

Council Member Sellers recommended that both members of the Utilities & Environment Committee be appointed to serve on the governing body liaison group.

Mayor Kennedy said that he spoke with Council Member Grzan, chair of the Utilities & Environment Committee, and that he has indicated a willingness to accept one of the seats. He stated that he is willing to accept one of the seats as a representative of the regional planning/transportation commission or either committee.

Action: *On a motion by Mayor Pro Tempore Tate and seconded by Council Member Sellers , the City Council unanimously (5-0) **Authorized** the City Manager to Execute the Revised Non-Voting Local Partner Agreement, and Rescind the August 3rd Authorization to Execute the Earlier Version of the Local Partner Agreement.*

Action: *On a motion by Mayor Pro Tempore Tate and seconded by Council Member Sellers, the City Council unanimously (5-0) **Authorized** the City Manager to Execute the Planning Agreement.*

Action: *On a motion by Mayor Pro Tempore Tate and seconded by Council Member Sellers , the City Council unanimously (5-0) **Designated** Council Member Grzan and Mayor Kennedy to Serve as Representatives on the Governing Body Liaison Group.*

City Council and Redevelopment Agency Action

OTHER BUSINESS:

27. MAYOR, COUNCIL MEMBER, AND REDEVELOPMENT AGENCY BOARD MEMBER COMPENSATION

Action: *By consensus, the Council **tabled** this item.*

FUTURE COUNCIL-INITIATED AGENDA ITEMS

No items were identified.

RECONVENE TO CLOSED SESSION

Interim City Attorney Siegel announced that the City Council would be adjourning to closed session to discuss anticipated litigation, government code section 54956.9 b and c, 3 potential cases.

Mayor/Chairman Kennedy opened the closed session items to public comment. No comments were offered. He adjourned the meeting to Closed Session at 9:58 p.m.

RECONVENE

Mayor/Chairman Kennedy reconvened the meeting at 10:24 p.m.

CLOSED SESSION ANNOUNCEMENT

Interim City Attorney/Agency Counsel Siegel announced that no reportable action was taken in closed session.

ADJOURNMENT

There being no further business, Mayor/Chairman Kennedy adjourned the meeting at 10:25 p.m.

MINUTES RECORDED AND PREPARED BY:

IRMA TORREZ, CITY CLERK/AGENCY SECRETARY



CITY COUNCIL STAFF REPORT

MEETING DATE: October 5, 2005

EMERGENCY EXPENDITURE FOR STORM LINE REPAIR ON EAST CENTRAL AVENUE

RECOMMENDED ACTION(S):

1. Adopt attached resolution declaring the need for emergency expenditure for storm line repair on East Central Avenue.
2. Approve payment in the amount of \$12,654 for the emergency work.

EXECUTIVE SUMMARY: Last winter while the infrastructure for the Morgan Station subdivision was being installed it was discovered that the sewer lateral for Donuts & Things had been stubbed (some time in the past) through the existing storm drain in East Central Avenue. As a result, the storm drain had become plugged and could not be cleared. In order to remove the debris and eliminate the possibility of flooding in the area Public Works staff directed the developer's contractor to reroute the sewer lateral and repair the damaged storm drain. The work was completed and the contractor is now requesting payment for the repair work. The total cost of the repair work is \$12,645.

FISCAL/RESOURCE IMPACT: Sufficient funds exist in our Streets Operations budget for this repair in 202-6100-42231.

Agenda Item # 11

Prepared By:

Senior Civil Engineer

Approved By:

Public Works Director

Submitted By:

City Manager

RESOLUTION NO.

**A RESOLUTION OF THE CITY COUCIL OF THE CITY OF
MORGAN HILL DECLARING THE NEED FOR AN
EMERGENCY EXPENDITURE FOR THE REPAIR OF
STORM LINE LOCATED IN EAST CENTRAL AVENUE IN
ACCORDANCE WITH PUBLIC CONTRACT CODE 20168**

WHEREAS, an emergency existed due to a section of damaged storm line and the potential flooding in the East Central Avenue area; and

WHEREAS, it was determined that the impending threat of flooding at this location would jeopardize public health and safety, and

WHEREAS, the City's ability to respond to flooding at this location would be hampered because of the inability of city forces to clear the plugged storm main thus creating a extraordinary hazard to the public, and the surrounding residences; and

WHEREAS, that due to the emergency provisions of Municipal Code Section 3.04 are being followed; now,

THEREFORE, BE IT RESOLVED that the City Council of the City of Morgan Hill does resolve, determine and order the following:

1. The damaged storm line located in East Central Avenue required emergency repair to prevent localized flooding and corresponding public and private property damage.
2. The immediate expenditure of public funds was necessary to safeguard life, health and property.
3. Under the provision of Municipal Code Section 3.04 due to the emergency the normal bidding requirements are waived and therefore the purchasing officer was authorized to contract for the repair without requiring bids
3. The sum of \$12,645 is hereby approved for expenditure for this emergency storm line repair.

PASSED AND ADOPTED by the City Council of Morgan Hill at a Regular Meeting held on the 5th Day of October, 2005 by the following vote.

AYES:	COUNCIL MEMBERS:
NOES:	COUNCIL MEMBERS:
ABSTAIN:	COUNCIL MEMBERS:
ABSENT:	COUNCIL MEMBERS:

🔊 CERTIFICATION 🔊

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Resolution No. , adopted by the City Council at a Regular Meeting held on October 5, 2005.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk



CITY COUNCIL STAFF REPORT

MEETING DATE: October 5, 2005

GENERAL PLAN AMENDMENT & PRE-ZONING APPLICATIONS GPA 05-03/ZA 05-10: CONDIT RD.-KUBO.

RECOMMENDED ACTION(S):

1. Open/close Public Hearing
2. Approve Negative Declaration
3. Adopt Resolution Approving General Plan Amendment
4. Introduce Ordinance Pre-zoning area PUD.
5. Waive the First and Second Reading of Ordinance

Agenda Item # 12

Prepared By:

Senior Planner

Approved By:

Kathy Molloy Previsich

Submitted By:

City Manager

EXECUTIVE SUMMARY: A request to amend the General Plan land use designation from Office Industrial to Commercial on a 19.87-acre area consisting of three parcels located adjacent to the east side of Hwy 101 on the southwest quadrant of the intersection of Diana Ave. and Condit Rd. Also requested is the pre-zoning of the area as a Planned Unit Development/PUD.

A total of 26 acres are designated Office Industrial within the General Plan. A change in land use from Industrial to Commercial would eliminate 19 of the 26 acres currently designated as Office Industrial. A survey completed in May 2004 indicated that approximately 235 acres of vacant industrial land existed within the City. Based on a 22-acre/year absorption rate, the City has approximately an 11-year supply of vacant industrial land. The loss of 19.87 acres of Office Industrial land would not have a significant affect on the current 11-year supply. The trade-off to the loss of Office Industrial land resulting from the proposed General Plan Amendment would be the creation of additional extensive retail sites. The site's location and the existing adjacent auto dealership would likely attract extensive retail uses, more automobile dealerships and other uses for which there is market demand. Consistent with the City's General Plan Land Use and Economic Development goals and policies, the proposed change would encourage the expansion of existing businesses, generate new revenue sources and add to the City's fiscal stability and economic diversity.

The proposed PUD pre-zoning has been designed to accommodate primarily extensive retail, automobile dealerships and other uses for which there is market demand. Prohibited uses have also been listed to preclude commercial development which is not regional or sub-regional in nature, or which would directly compete with downtown or existing commercial development. In addition to specifying permitted, conditional and prohibited uses, the proposed PUD District also contains design guidelines and standards to facilitate and promote coordination of design, access and other features associated with development of the properties within the PUD.

On September 27, the Planning Commission voted 6-0 (Koepp-Baker absent), recommending approval of the proposed General Plan Amendment, PUD Pre-zone and Negative Declaration. A copy of the Planning Commission staff report is attached. The timing of the General Plan Amendment requests did not allow for the Planning Commission minutes to be included with this agenda item.

FISCAL IMPACT: No budget adjustment required. Filing fees were paid to the City to cover the cost of processing the applications.

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING OF GENERAL PLAN AMENDMENT GPA-05-03: CONDIT RD.-KUBO CHANGING THE LAND USE DESIGNATION FROM INDUSTRIAL TO COMMERCIAL FOR A 19.87-ACRE AREA LOCATED AT THE SOUTHWEST CORNER OF CONDIT ROAD AND DIANA AVE. ADJACENT TO THE EAST SIDE OF HIGHWAY 101 (APN 728-17-011, 728-17-025 and 728-17-024).

WHEREAS, such request was considered by the City Council at their regular meeting of October 5, 2005, at which time the City Council approved GPA-05-03: Condit-Kubo; and

WHEREAS, testimony received at a duly-noticed public hearing, along with exhibits and drawings and other materials have been considered in the review process.

NOW, THEREFORE, THE MORGAN HILL CITY COUNCIL DOES RESOLVE AS FOLLOWS:

SECTION 1. The General Plan Amendment is consistent with the General Plan.

SECTION 2. An environmental initial study has been prepared for this application, and has been found complete, correct and in substantial compliance with the requirements of the California Environmental Quality Act. A Negative Declaration will be filed.

SECTION 3. The General Plan Amendment conforms with Goals 9 & 11 of the Land Use Section and Goal 1 of the Economic Development Section of the Community Development Element of the General Plan. The amendment would provide sufficient and concentrate commercial uses along Condit Avenue, not significantly impact the City's supply of vacant industrial land and facilitate a strong, stable and diverse economic base.

SECTION 4. Future development of the General Plan Amendment area shall comply with the approved Negative Declaration. Future uses and development plans will need to be reviewed for compliance with the California Environmental Quality Act.

SECTION 5. The City Council hereby approves a General Plan Amendment to change the land use designation from Industrial to Commercial for three parcels totaling 19.87 acres in size, as shown on attached Exhibit 'A'.

PASSED AND ADOPTED by the City Council of Morgan Hill at a Regular Meeting held on the 5th Day of October, 2005 by the following vote.

AYES: **COUNCIL MEMBERS:**
NOES: **COUNCIL MEMBERS:**
ABSTAIN: **COUNCIL MEMBERS:**
ABSENT: **COUNCIL MEMBERS:**

☪ CERTIFICATION ☪

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Resolution No. , adopted by the City Council at a Regular Meeting held on October 5, 2005.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk

ORDINANCE NO. , NEW SERIES

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL PRE-ZONING 19.87 ACRES FROM COUNTY OF SANTA CLARA AGRICULTURAL ZONING (A-20) TO PLANNED UNIT DEVELOPMENT (PUD) ZA-05-10: CONDIT-KUBO (APN 728-17-011, -024, -025)

THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Establish a Planned Unit Development pre-zoning designation for 19.87 acres of land located on the southwest quadrant of Diana Avenue and Condit Road. The Planned Unit Development zoning designation shall become effective upon annexation of the parcels to the City of Morgan Hill.

SECTION 2. An environmental initial study has been prepared for the proposed amendment and has been found complete, correct and in substantial compliance with the requirements of California Environmental Quality Act. A Negative Declaration will be filed.

SECTION 3. INCORPORATING THE MAP BY REFERENCE. There hereby is attached hereto and made a part of this ordinance, a zoning map entitled “Exhibit A” Map Showing Pre-zoning Lands of Kubo Being a Part of Ordinance No. , New Series, which shows the boundaries of the described parcels of land.

SECTION 4. USE AND DEVELOPMENT STANDARDS. There hereby is attached hereto and made a part of this ordinance Exhibit “B”, which sets forth the text of the PUD zoning district and establishes the applicable use, development and performance standards to be applied to the properties as shown on the map attached thereto as Exhibit “A”.

SECTION 5. SEVERABILITY. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

SECTION 6. FINDING OF CONSISTENCY WITH THE GENERAL PLAN. The City Council hereby finds that the amendment established by this ordinance as herein described is compatible with the goals, objectives, policies and land use designation of the General Plan of the City of Morgan Hill. The Council further finds that the proposed amendment is required in order to serve the public health, convenience and general welfare as provided by Section 18.62.010 of the Morgan Hill Municipal Code.

SECTION 7. Effective Date Publication. This ordinance shall take effect thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

The foregoing ordinance was introduced at the regular meeting of the City Council of the City of Morgan Hill held on the 5th Day of October 2005, and was finally adopted at a regular meeting of said Council on the Day of October 2005, and said ordinance was duly passed and adopted in accordance with law by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:

ATTEST:

APPROVED:

Irma Torrez, City Clerk

Dennis Kennedy, Mayor

∞ CERTIFICATE OF THE CITY CLERK ∞

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Ordinance No. , New Series, adopted by the City Council of the City of Morgan Hill, California at their regular meeting held on the Day of October 2005.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk

EXHIBIT B
ZA-05-10
CONDIT-KUBO PUD ZONING ORDINANCE

Area:

The 19.87 acre area is shown on Exhibit A of this ordinance, which includes Assessor Parcel Numbers 728-17-011, -024 and -025.

Purpose:

The purpose of this city-initiated 19.87-acre Planned Unit Development (PUD) is to accommodate regional- and community-serving uses that typically require and benefit from exposure to and visibility from a freeway. The PUD is intended to accommodate primarily extensive retail, automobile dealerships and other uses for which there is market demand; and which generally would not choose to locate in the downtown or within the community shopping centers that exist in Morgan Hill, due to need for visibility from Highway 101 and larger-sized structures or facilities.

The PUD District will facilitate and promote coordination of design, access, use and other features associated with development of the properties within the PUD. While the District will allow diversification in the relationship of various buildings, structures and facilities, it will also ensure that careful site and architectural planning occur so that development projects reflect and incorporate appropriate standards related to the public health, safety and general welfare.

Permitted, Conditional and Prohibited Uses Within PUD:

Permitted

1. Motor vehicle, boat and recreational vehicle sales and service
2. Home furnishings
3. Electronics store
4. Appliance store
5. Office supply
6. Carpet and flooring stores
7. Offices, Professional Offices
8. Public and utility facilities

Conditional

1. Restaurants, sit down
2. Commercial recreation
3. Retail uses not listed as Permitted or Prohibited
4. Hotels/motels
5. Personal Services and Financial Services
6. Business and Trade Schools

7. Any other use which the Planning Commission finds to be similar in nature to the permitted and conditional uses, and that is not similar in nature to those listed as prohibited uses

Prohibited

1. Cinemas, Theaters, Nightclubs, Bars that are not associated with Restaurant
2. Convenience Stores
3. Fast Food Restaurants
4. Grocery Stores, Supermarkets and Drug Stores
5. Gasoline Service Stations
6. Residential uses
7. Small and Large Family Day Care Homes
8. Nursery Schools, Day Care Centers, Primary and Secondary Schools
9. Churches, Religious Buildings, Social Halls, Fraternal Organizations, Private Clubs
10. Hospitals, Medical Facilities, Medical and Dental Offices, Licensed Nursing Homes and Convalescent Hospitals
11. Mini Storage Facilities

Development Plan Required to Establish PUD Development Standards

The first applicant proposing to develop within this PUD District shall submit a proposed Development Plan for approval, and such request shall be in the form of an amendment to this PUD District. The amendment request shall follow the same procedures as established for zoning amendments, as defined and described in Chapter 18.62 of the Municipal Code. The PUD District Amendment shall define the general manner in which the PUD will develop; will establish minimum setbacks, maximum height and other development standards; and will include the information identified in Section 18.30.050 of the Municipal Code.

Design Review and Approval

All buildings proposed for development within the PUD shall be subject to the architectural and site review process, as defined in Chapter 18.74 of the Municipal Code.

Design Guidelines and Performance Standards

Development Plan and Architectural and Site Review approval shall be subject to finding that the proposed improvements are in substantial conformance with the following Design Guidelines and Performance Standards. A Performance Standard uses the word “shall” within the text of the standard and future developments must incorporate the performance standards; all other statements are considered Design Guidelines and the design review process will be used to determine substantial compliance with the Guidelines as a whole.

Architecture/Site Planning

1. The general aesthetic character of the building exteriors is to be designed to present a harmonious architectural theme that reflects high quality design.
2. Rooflines should be designed to create architectural interest and to “break” large structures into smaller perceived scales. While buildings should not be more than 3 stories tall, the maximum height established for the PUD should not restrict architectural flexibility in creating interesting buildings appropriate to planned uses. Roofs should incorporate a maximum of two varying roof types (e.g., hip, gable), or a minimum of two varying roof heights for flat roofed structures.
3. Walls of structures should incorporate alternating planes, by stepping or staggering setbacks and/or by recessing windows and entrances, to provide breaks in massing and architectural interest.
4. Doors and windows should enhance the design of buildings, such as by use of various sizes, shapes and/or repeating patterns that complement the overall theme of the building, and/or by use of accent trim or accent colored window framing.
5. The type and variety of materials and colors on exterior elevations should be selected to create a harmonious, interesting and well-designed building, which is neither visually monotonous nor visually overwhelming.
6. All exterior wall elevations visible from and/or facing public roadways, or key interior vehicular and pedestrian travelways, should have architectural treatment at a similar level of detail as the primary/entrance elevations for structures. Flat, void building surfaces without architectural treatment should be avoided, and even less visible elevations should reflect some appropriate level of design.
7. Facade architectural treatment shall be applied to all building elevations with the same degree of detail as the building entrance.
8. No franchise architecture that users construct in other cities is permitted. Franchise logos and other identifying design treatments need to be incorporated into designs that are created for and compatible with Morgan Hill.
9. The PUD and Development Plan design criteria shall be included within any CC&R’s that are created for properties within the PUD.
10. Buildings shall comply with ADA public access requirements, and path of travel from the public sidewalk shall be carefully integrated into the site plan.

11. Mechanical and utility equipment is to be located below the roofline or parapet wall and substantially out of public view, and not exposed on the wall surface of a structure. Location within the building or at ground level is preferred to roof mounting. When such equipment cannot be so located, all roof-mounted mechanical equipment or ductwork which projects vertically above the roof or roof parapet shall be screened by an enclosure which is detailed consistently with the building design.
12. Gutters and downspouts shall be designed elements of the project. Gutters and downspouts that are designed with parapet walls shall be located interior to the wall when adjacent to a roadway frontage. All other gutters and downspouts that cannot be located interior to the wall shall be treated to blend into the facade to which it is attached, unless used as a major design element, in which case the color shall be consistent with the color schemes of the building.
13. All outdoor storage of goods, materials or equipment must be identified on the site plan, and located within an area that is appropriately visually screened. The screening is to be designed as an integral part of the building design and site layout. Chain link fencing with wood inserts is not an acceptable manner of screening.
14. Trash enclosures are to be constructed of solid masonry material, designed compatibly with buildings on-site, and a minimum 6 feet in height with solid view-obstructing gates. Trash enclosures are to be located in inconspicuous locations.
15. Vending machines, newspaper racks, and similar coin-operated devices are allowed only within the interior areas of buildings.
16. Uses within the PUD that utilize shopping carts shall provide indoor storage of the carts and shall provide for collection areas throughout the parking lots.
17. The design of fences and walls must be compatible with the surrounding landscape and architectural concepts.
18. The practice of balanced grading should be reflected on proposed site and grading plans to the greatest extent possible.
19. A representative site plan for the entire PUD which illustrates building envelopes, parking areas, pedestrian access, landscaping, connecting driveways and walkways, reciprocal easements, sign location, storm water detention and other features is to be included in the development standards. Drawings of building elevations, which embody the style and design concepts for the PUD and represent the level of architectural quality to be achieved, shall be included.
20. Parking lots should be designed to include curb planters around trees, and existing trees should be retained where feasible to include within the development site plan(s).

21. Compressors are to be screened by a wall or fence and be located below the fascia and/or roofline of the building. Further, they shall be located on the rear or hidden side of the building and shall be painted to match the surface to which attached, if that surface is visible.

Parking and Loading/Circulation

1. Parking shall be screened from public view through the use of berming, hedgerow planting, shrubs, trees, fences or walls, or any combination thereof, provided that no more than 35% of the total screening shall consist of fences or walls. At time of installation, shrub plantings shall be minimum 5-gallon size, trees shall be a minimum 15-gallon, and berming/fences/walls shall be a minimum 3 ft. in height.
2. No angled parking or one-way drive aisles shall be utilized in the parking lot.
3. Parking areas shall be designed to include provision for pedestrian walkways to provide access to building entrances. Walkways that cross traffic lanes shall have special design features such as raised and/or textured pavement, narrowed roadway, or combination thereof. Walkways shall be provided through landscaped areas to protect landscaping from foot traffic damage.
4. Parking areas of adjoining property owners shall be located to utilize shared or reciprocal access and shared parking whenever possible.
5. Loading areas and docks shall be screened from view by a solid wall. The wall shall be architecturally treated and screened with landscaping.
6. Parking lots shall be designed to provide for safe and efficient movement of vehicles between properties by providing joint access easements and reciprocal easements wherever possible.
7. All employee and customer parking shall be provided on-site.
8. Cross access easements and drive aisles shall be provided throughout the PUD.
9. Drive aisles shall allow for complete circulation within the PUD, with sufficient width for emergency vehicles, and shall not include dead end drive aisles.
10. PUD driveways shall align with those across the street.
11. Drive aisles shall align and be situated perpendicular to the main building frontage.

12. Adequate auto stack-up areas shall be designed to permit a minimum of two cars to enter the parking lot area without obstructing either street through traffic or vehicle backup areas within the parking lot.
13. The number of curb cuts connecting the site with collector or arterial streets shall be minimized.
14. Mutual access easements and mutual driveways are strongly encouraged, to minimize paved areas and curb cuts.
15. A minimum of 5-foot wide walkways or landscape areas should be provided around structures and architectural features, particularly those located adjacent to vehicular drive aisles, in order to allow for visibility to and the safety of pedestrians entering structures and walking into or near drive aisles.
16. Access to the property and circulation thereon shall be safe and convenient for pedestrians, cyclists, and vehicles. Vertical and horizontal sight lines shall be sufficient to ensure safe vehicular and pedestrian movements.

Landscaping and Open Space

1. Design criteria for landscaping shall be consistent throughout the PUD. Each development within the PUD shall follow the requirements contained herein when preparing their landscaping plans. Additional landscaping design criteria is available from the City of Morgan Hill, Planning Division.
2. The nature, amount and arrangement of open space should be carefully planned to complement the planned placements, functions and designs of structures, with consideration given to possible public/quasi-public use of the open space areas for seating, waiting areas, and so forth.
3. Landscaping should be carefully planned to complement the designs of the buildings, to add color and interest, and to be sustainable for the development. The entrance to the PUD is to be well-landscaped and serve as a focal point, and attractive front landscaped setbacks along public street frontages are also particularly important.
4. The general characteristics of the plant palette for the PUD should reflect a combination of year-round color and textural interest. Plants should be selected on the basis of color combinations, growth patterns, low maintenance and water conservation characteristics. At time of installation, the tree sizes shall be a minimum of 15 gallon, and 24-inch box material may be required by the ARB for certain projects or locations.
5. At time of installation, all shrub planting should be a minimum of 5-gallon size, or as approved through architectural and site review. Along the project frontage(s), minimum 15-gallon containers are strongly encouraged to facilitate earlier and stronger establishment of landscaping. Planned minimum shrub height should be three feet, or as

approved by architectural and site review.

6. All street trees and trees planted within the front setback areas should be a minimum of 24-inch box size, or as approved by architectural and site review. Where applicable, street trees are to be consistent with the City Morgan Hill Master Street Tree program.
7. Landscaping shall be placed adjacent to a minimum of 50 percent of a building's perimeter.
8. Landscaping at the entrance of a building shall include box size and/or accent trees to create a focal point to help direct people to the building entrance.
9. Native oaks and fieldstones should be strongly considered for incorporation into the landscape plan.
10. A minimum of 15 percent of all required parking areas shall be landscaped. Required setback and perimeter planting areas shall not be counted in this area, but may include the building perimeter landscaping.
11. A canopy like tree shall be planted in the parking lot planter islands to produce shade.
12. Landscaping shall be compatible with, and complement the site planning, as well as the architecture of the building. Plantings in parking lots shall help soften and visually tie the buildings to landscaping.
13. Shrubs and vine planting shall be provided to screen utilities and trash enclosures.
14. The developer shall be required to follow the landscape design criteria, which is available from the City of Morgan Hill, Community Development Department. A landscape buffer shall be established, as required, to provide screening and noise abatement from the highway.
15. All parking areas shall be screened from view of public streets by use of berming or masonry walls of a minimum three-foot effective height.
16. Proper trimming and pruning of trees within the PUD will be monitored by the City of Morgan Hill. The improper "Topping" of trees will be prohibited.
17. Any future alterations or modifications of the landscaping within the d PUD shall be reviewed and approved by the Architectural Review Board.
18. Landscaping and berming within the 30-foot Condit Road frontage shall be designed so as to mitigate noise generated on site.

Signage/Displays

1. A uniform sign program identifying locations of signs both on- and off-site shall be prepared for review and approval of the Community Development Department, as part of the Architectural and Site Review for each proposed development or structure.
2. PUD freeway signage shall utilize a single freeway sign consistent with the provisions of the City sign ordinance.
3. Monument freestanding signs should be proposed only for those uses located adjacent to the Condit Road frontage, in compliance with the City of Morgan Hill Planning and Zoning Codes, Section 18.76.250.
4. Address numbers shall contrast with their background, and shall be six inches in height. Address numbers should also occur on the monument sign.
5. Any flag poles installed on-site shall not exceed 30 feet in height.

Lighting

1. The design of the exterior building lighting and parking lot lighting fixtures shall be compatible with the architecture to be used in the development.
2. As part of the site and architectural review process, a photometric study shall be conducted to evaluate on-site lighting. The photometric study shall identify appropriate lighting levels to minimize light and glare impacts on adjacent properties. The photometric study shall be reviewed and approved by the Architectural Review Board.
3. Lighting for pedestrian pathways shall be reduced in height and scale, to create a more human-scale feeling and atmosphere.
4. All lighting shall be shielded and directed in such a manner so as not to produce harmful effects upon neighboring property.
5. The lighting for all of the uses within the PUD shall be subject to review and approval of the Community Development Director. Adjustments to the lighting intensity may be requested after commencement of the use.

Utilities and Safety Features

1. There shall be shared use storm water detention facilities. Location and method of storm water mitigation shall be reviewed and approved as part of the Architectural and Site Review process.
2. A maximum of one detention pond, or one interlinked detention pond system with one outfall into the Madrone Channel, shall be used to serve the entire development. The

detention pond shall not be located within any setback area and shall not be visible from any public street.

3. All backflow devices, fire risers and check valves shall be screened with landscaping.
4. All future development applications shall be subject to review and condition of the appropriate utility and public service providers for the City of Morgan Hill.
5. No utility equipment shall be located within the front setback area unless placed within an underground vault. All transformers shall be located interior to the site, outside of the front setback area, and shall be screened with landscape material.
6. Approved numbers or addresses are to be placed on all new buildings in such a position as to be plainly visible and legible from the street or road fronting the property.
7. All buildings shall be protected by an approved automatic fire sprinkler system, per City of Morgan Hill Ordinance.

Noise

1. Uses within the PUD shall not use any exterior public address systems or other noise intrusive communication systems.

Easements

1. Easements for the installation and maintenance of utilities, walkways, future roads and drainage facilities, and shared driveways will be recorded as part of any subdivision map or lot line adjustment. Other easements, such as paved parking, will be recorded as an offer of easement if secondary users are unknown.

General Provisions

1. Any modification to these PUD Guidelines shall be subject to review and approval of a PUD Guidelines Amendment.



CITY COUNCIL STAFF REPORT

MEETING DATE: *October 5, 2005*

APPLICATION GPA-04-09/ZONING AMENDMENT, ZA-05-01: MONTEREY-ALCINI AND GPA-04-10: E. DUNNE - BASANTY

RECOMMENDED ACTION(S):

1. Open/close the Public Hearing on GPA-04-09: Alcini and on GPA-04-10: Basanty
2. Approve the Mitigated Negative Declaration
3. Adopt Resolution approving General Plan Amendment for Alcini
4. Adopt Resolution approving General Plan Amendment for Basanty
5. Open/close the Public Hearing on ZA-05-01: Monterey-Alcini.
6. Waive the First and Second Reading of the Ordinance
7. Introduce Ordinance extending the CC/R zoning district south of Dunne Avenue.

EXECUTIVE SUMMARY: A request to amend the General Plan Land Use Diagram and Zoning Map to extend the Mixed Use land use designation and Central Commercial Residential zoning south of East Dunne Avenue on the East Side of Monterey Road. The first application (GPA-04-09: Monterey-Alcini) would amend the northeast corner of Monterey Road and Bisceglia Avenue from Commercial to Mixed Use. The applicant intends to replace the existing uses with a mixed-use commercial and residential project. The second application (GPA-04-10: E. Dunne-Basanty) proposes to amend the southeast corner of E. Dunne Avenue and Church Street from Industrial to Mixed Use. The applicant has proposed a mix use project of ground floor retail, with dwelling units on the upper floors. For purposes of the environmental review and to conform to General Plan policy, the Planning Commission agreed with a staff recommendation to combine both General Plan Amendment applications into a single project area encompassing both sites, plus the intervening parcels from East Dunne Avenue south to Bisceglia Avenue between Monterey Road and Church Street. The combined area consists of 29 parcels and a total of 13.25 acres. Alcini is also requesting a zoning amendment to CC-R, Central Commercial/Residential. The zoning amendment would also apply to the expanded area.

As noted in the attached Planning Commission report, the proposed extension of the Mixed Use Land Use designation and CC/R, zoning south of Dunne Avenue is consistent with General Plan Land Use Policies 13d, 13f and 13l. These policies call for the City to continue the downtown streetscape and pedestrian-oriented design theme along Monterey Road for at least one block south of Dunne Avenue and from Monterey Road east to Butterfield Boulevard between Main and Dunne Avenues, to provide a transition from downtown adjoining commercial areas. Policy 13.1 encourages residential uses on upper floors above commercial uses in the downtown area. Both applicants are proposing vertical mixed use developments on their respective properties. The change in land use designation will not result in any significant environmental impacts.

At their September 27, 2005 meeting the Planning Commission voted 5-1 (Koepp-Baker absent) to recommend approval of the combined area Alcini and Basanty General Plan requests. Commissioner Mueller voted no. The Commission voted 2-4, on the Zoning Ordinance. A majority of the Commission (Lyle, Mueller, Davenport, and Escobar) objected to waiving the residential guest parking requirement allowed in the CC/R district, to the area south of Dunne, and the allowance for three story buildings to the area also south of Dunne Avenue. The timing of the General Plan Amendment requests did not allow for the Planning Commission minutes to be included with this agenda item.

FISCAL IMPACT: No budget adjustment required.

Agenda Items # 13

Prepared By:

Planning Manager

Submitted By:

City Manager

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING GENERAL PLAN AMENDMENT GPA-04-09: MONTEREY – ALCINI, AMENDING THE LAND USE DESIGNATION FROM COMMERCIAL TO MIXED USE FOR TWENTY SEVEN PARCELS TOTALING 9.78 ACRES LOCATED BETWEEN MONTEREY ROAD AND CHURCH STREET FROM EAST DUNNE AVENUE SOUTH TO BISGEGLIA AVENUE. (APNS 817-01-018 thru 022, 026, 031 thru 039, 045, 046, 050, 051, 053, 054, 055, 059 thru 064)

WHEREAS, such request was considered by the City Council at their regular meeting of October 5, 2005, at which time the City Council approved application GPA-04-09: Monterey - Alcini; and

WHEREAS, testimony received at a duly-noticed public hearing, along with exhibits and drawings and other materials have been considered in the review process.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES RESOLVE AS FOLLOWS:

SECTION 1. The General Plan Amendment is consistent with the provisions of the General Plan.

SECTION 2. An environmental initial study has been prepared for this application, and has been found complete, correct and in substantial compliance with the requirements of the California Environmental Quality Act. A mitigated Negative Declaration will be filed.

SECTION 3. The proposed extension of the Mixed Use Land Use designation and CC/R, zoning south of Dunne Avenue is consistent with General Plan Land Use Policies 13d, 13f and 13l. These policies call for the City to continue the downtown streetscape and pedestrian-oriented design theme along Monterey Road for at least one block south of Dunne Avenue and from Monterey Road east to Butterfield Boulevard between Main and Dunne Avenues, to provide a transition from downtown adjoining commercial areas. Policy 13.1 encourages residential uses on upper floors above commercial uses in the downtown area. Both applicants are proposing vertical mixed use developments on their respective properties.

SECTION 4. The City Council approves the General Plan Amendment shown in the attached Exhibit 'A'.

SECTION 5. Future development of the General Plan Amendment area shall comply with the mitigation measures of the approved mitigated Negative Declaration.

PASSED AND ADOPTED by the City Council of Morgan Hill at a Regular Meeting held on the 5th Day of October, 2005 by the following vote.

AYES:	COUNCIL MEMBERS:
NOES:	COUNCIL MEMBERS:
ABSTAIN:	COUNCIL MEMBERS:
ABSENT:	COUNCIL MEMBERS:

🏛️ CERTIFICATION 🏛️

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Resolution No. , adopted by the City Council at a Regular Meeting held on October 5, 2005.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk



Prepared by Community Development Department

VICINITY MAP

GPA-04-09: Monterey-Alcini & GPA-04-10:
E. Dunne -Basanty

R:\PLANNING\Maps\Illustrator maps\Vicinity Maps\General Plan Amendment\GPA 0409 & 0410.pdf



RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING GENERAL PLAN AMENDMENT GPA-04-10: E. DUNNE - BASANTY AMENDING THE LAND USE DESIGNATION FROM INDUSTRIAL TO MIXED USE FOR TWO PARCELS TOTALING 3.47 ACRES LOCATED AT THE SOUTHEAST CORNER OF EAST DUNNE AVENUE AND CHURCH STREET. (APNS 817-01-056, 057)

WHEREAS, such request was considered by the City Council at their regular meeting of October 5, 2005, at which time the City Council approved application GPA-04-10: E. Dunne - Basanty; and

WHEREAS, testimony received at a duly-noticed public hearing, along with exhibits and drawings and other materials have been considered in the review process.

NOW, THEREFORE, THE MORGAN HILL CITY COUNCIL OF THE CITY OF MORGAN HILL DOES RESOLVE AS FOLLOWS:

SECTION 1. The General Plan Amendment is consistent with the provisions of the General Plan.

SECTION 2. An environmental initial study has been prepared for this application, and has been found complete, correct and in substantial compliance with the requirements of the California Environmental Quality Act. A mitigated Negative Declaration will be filed.

SECTION 3. The proposed extension of the Mixed Use Land Use designation and CC/R, zoning south of Dunne Avenue is consistent with General Plan Land Use Policies 13d, 13f and 13l. These policies call for the City to continue the downtown streetscape and pedestrian-oriented design theme along Monterey Road for at least one block south of Dunne Avenue and from Monterey Road east to Butterfield Boulevard between Main and Dunne Avenues, to provide a transition from downtown adjoining commercial areas. Policy 13.l encourages residential uses on upper floors above commercial uses in the downtown area. Both applicants are proposing vertical mixed use developments on their respective properties.

SECTION 4. The City Council approves the General Plan Amendment shown in the attached Exhibit 'A'.

SECTION 5. Future development of the General Plan Amendment area shall comply with the mitigation measures of the approved mitigated Negative Declaration.

PASSED AND ADOPTED by the City Council of Morgan Hill at a Regular Meeting held on the 5th Day of October, 2005 by the following vote.

AYES:	COUNCIL MEMBERS:
NOES:	COUNCIL MEMBERS:
ABSTAIN:	COUNCIL MEMBERS:
ABSENT:	COUNCIL MEMBERS:

🏛️ CERTIFICATION 🏛️

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Resolution No. , adopted by the City Council at a Regular Meeting held on October 5, 2005.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk



EXHIBIT A

GPA-04-10: E. Dunne -Basanty

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ORDINANCE NO. , NEW SERIES

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AMENDING THE ZONING DESIGNATION FROM ML, LIGHT INDUSTRIAL, R-2 (3500) RESIDENTIAL AND CG, GENERAL COMMERCIAL TO CC-R, CENTRAL COMMERCIAL/RESIDENTIAL FOR TWENTY NINE PARCELS TOTALING 13.25 ACRES LOCATED AT THE SOUTHEAST CORNER OF EAST DUNNE AVENUE AND CHURCH STREET AND SOUTH SIDE OF EAST OF DUNNE AVENUE BETWEEN MONTEREY ROAD AND CHURCH STREET NORTH OF BISCEGLIA AVENUE. (APNS 817-01-018 thru 022, 026, 031 thru 039, 045, 046, 050, 051, 053 thru 057, 059 thru 064)

THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY ORDAINS AS FOLLOWS:

SECTION 1. Amending the zoning designation from ML, Light Industrial, R-2 (3,500) Residential and CG, General Commercial to CC-R, Central Commercial/Residential on twenty nine parcels totaling 13.25 acres.

SECTION 2. There hereby is attached hereto and made a part of this ordinance, a zoning plat entitled "Exhibit A" Map Showing Lands of Alcini and Basanty, et.al., being a Part of Ordinance No. , New Series, which gives the boundaries of the described parcels of land.

SECTION 3. An environmental initial study has been prepared for this application and has been found complete, correct and in substantial compliance with the requirements of California Environmental Quality Act. A mitigated Negative Declaration will be filed.

SECTION 4. The City Council hereby finds that the amendment established by this ordinance as herein described is compatible with the goals, objectives, policies and land use designation of the General Plan of the City of Morgan Hill. The Council further finds that the proposed amendment is required in order to serve the public health, convenience and general welfare as provided by Section 18.62.010 of the Morgan Hill Municipal Code.

SECTION 5. Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

SECTION 6. Effective Date; Publication. This Ordinance shall take effect from and after thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

The foregoing ordinance was introduced at the regular meeting of the City Council of the City of Morgan Hill held on the 5th Day of October 2005, and was finally adopted at a regular meeting of said Council on the Day of October 2005, and said ordinance was duly passed and adopted in accordance with law by the following vote:

AYES: **COUNCIL MEMBERS:**
NOES: **COUNCIL MEMBERS:**
ABSTAIN: **COUNCIL MEMBERS:**
ABSENT: **COUNCIL MEMBERS:**

ATTEST:

APPROVED:

Irma Torrez, City Clerk

Dennis Kennedy, Mayor

⌘ CERTIFICATE OF THE CITY CLERK ⌘

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Ordinance No. , New Series, adopted by the City Council of the City of Morgan Hill, California at their regular meeting held on the Day of October 2005.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk





CITY COUNCIL STAFF REPORT

MEETING DATE: October 5, 2005

APPLICATION GPA-05-01: AMENDMENT TO THE CIRCULATION ELEMENT FOR THE MADRONE PARKWAY EXTENSION

RECOMMENDED ACTION(S):

1. Open/Close the Public Hearing
2. Take no Action, thereby keeping the Madrone Parkway Extension in the Circulation Element to the General Plan.

EXECUTIVE SUMMARY: The adoption of the updated Circulation Element to the General Plan in 2001 included a proposed extension of Madrone Parkway across the Union Pacific Railroad (UPRR) track west to Hale Avenue/future Santa Teresa Blvd. Madrone Parkway is the northerly terminus to Butterfield Boulevard. The planned road extension would be consistent with policies 4b and 4c of Circulation Element by creating the connections between Butterfield and Monterey and between Monterey and Santa Teresa at the north end of the city. The circulation plan would create a new at grade railroad crossing at Madrone Parkway in trade for the closure of Tilton Avenue. In 2002, the City made application to the California Public Utilities Commission (PUC) to construct the at-grade crossing and completing the connection to Monterey Road. The application was rejected by the PUC and was opposed by UPRR for safety reasons. The City's position was that a new at grade crossing at Madrone Parkway would be safer than the existing Tilton crossing due to the grade difference that exists between the tracks and the adjacent Monterey Road at Tilton.

In 2004, the City commissioned a study (attached) to provide the City Council with alternatives for establishing a major east-west thoroughfare across the UPRR tracks at the north end of the City. Three alternate locations were studied: 1.) Madrone Parkway extension to Hale Avenue with a grade-separated structure under Monterey Road and the UPRR, 2.) Cochrane Road extension to Hale Avenue with a grade-separated structure under Monterey Road and the UPRR tracks, and 3.) Connect Monterey Road and Hale Avenue via Llagas Creek Drive south of Llagas Road. All three alternatives will meet the General Plan build-out conditions and maintain all signalized intersections at the acceptable level of D+ or better. However, each of the three alternatives will require a General Plan amendment because all three deviate from the current Circulation Element of the General Plan. The City Council selected Alternate 3 and directed staff to eliminate the Madrone Parkway extension from the General Plan.

Following the City Council decision to amend the Circulation Element, staff was advised that the PUC and UPRR have reconsidered their position with respect to the Madrone Parkway crossing. Both are now willing to consider a new at grade crossing at Madrone. The matter came up for reconsideration in conjunction with a project being undertaken by the VTA to install double tracks across Tilton Avenue. Double tracking will worsen an unsafe condition that exists at Tilton due to the grade difference. The Council's Regional Planning and Transportation Subcommittee were advised of this change in position at their September 9, 2005 meeting. The Subcommittee noted that while alternatives exist to the Madrone Parkway extension that will meet the General Plan build-out conditions; Madrone Parkway is still the preferred alignment to meet the City's long-term transportation needs. The Subcommittee members (Mayor Kennedy and Council member Sellers) therefore voted to recommend the City keep the Madrone Parkway extension in the General Plan. The Planning Commission, at their September 27, 2005 meeting voted 6-0 to offer the same recommendation. The Planning Commission meeting minutes are not yet available.

FISCAL IMPACT: No budget adjustment required.

Agenda Item # 14

Prepared By:

Planning Manager

Approved/Submitted By:

City Manager



CITY COUNCIL STAFF REPORT

MEETING DATE: October 5, 2005

POTENTIAL MORATORIUM ON CELL TOWER SITING

RECOMMENDED ACTION(S): Consider recommendation from the Utilities and Environment Committee.

EXECUTIVE SUMMARY: At the September 19 Utilities and Environment Subcommittee meeting, the Subcommittee recommended that the City consider a moratorium on the siting of cell towers. The moratorium would prevent the siting of additional towers between the time of its adoption and the adoption of a final ordinance regulating cell tower siting. As indicated in the City's workplan, the Planning Division is developing an ordinance that should be ready for presentation to the Council this Spring. If a moratorium is adopted by the Council, it goes into effect immediately without further public noticing or readings. The attached report from the Subcommittee describes the concerns expressed by its members and the purpose of the proposed moratorium. A second attachment, prepared by the Interim City Attorney, provides general background on the process of establishing a moratorium.

The City's current regulations require applicants to get a conditional use permit from the Planning Commission for cellular towers. The City Council is not involved in issuing conditional use permits unless the permit is appealed. There are currently 10 permitted sites within the City and staff in the Planning Division have recently received one application for an additional site and know of two applicants that are planning to apply in the near future.

Several cell towers are located on city-owned property via a lease agreement between the City and tower owners. The City has been negotiating for many months on the future configuration and lease agreement for the privately-owned cellular facilities currently mounted on the City's Nob Hill water reservoir. Any potential agreements reached as a result of these negotiations must be considered by the City Council before execution.

The Santa Clara County Cities Association is currently developing a model cellular phone ordinance in order to promote a uniform approach to tower siting among cities. If this report is available in a timely manner, the Planning Division will incorporate its results into the ordinance developed in the Spring.

Given the need for the City's public safety departments to improve their communication capabilities and their ability to talk among various agencies during times of emergency, it is recommended that the moratorium, if recommended by Council for further consideration, exempt communication devices developed for City Emergency operation purposes.

FISCAL/RESOURCE IMPACT: The City Attorney's Office had not planned to develop a cell tower moratorium this year. Therefore, preparing a moratorium ordinance will impact other staff work activities.

Agenda Item # 15

Prepared By:

Program Administrator

Approved By:

Public Works Director

Submitted By:

City Manager

UTILITIES AND ENVIRONMENT SUBCOMMITTEE REPORT

RE: POTENTIAL MORATORIUM ON CELL TOWER SITING



In recent months, members of the City Council have received communications from local residents expressing concern about the siting of additional cell tower facilities. In recognizing this and the actions taken by other cities in the County, the Council has asked staff to develop an ordinance regulating the siting of cell towers. The Planning Division's Workplan indicates that this ordinance should be ready to present to the City Council in the spring. In the meantime, the City's current regulations are primarily based on aesthetic concerns and do not purposefully consider other concerns associated with cell towers.

Presently, applications to site new cell tower facilities on private property are subject only to the City's current zoning regulations and there are no specific rules or regulations addressing tower siting. Applicants must obtain a conditional use permit, which is considered by the Planning Commission, in order to site a new tower. Unless appealed, a conditional user permit application does not normally appear before the City Council. Conversely, applications to site towers on property owned by the City would necessitate a lease agreement that would be directly reviewed and considered by the Council.

Given the high level of community concern on this issue and the many months between now and when the ultimate ordinance will be in effect, the Subcommittee is interested in pursuing the adoption of a temporary moratorium preventing the siting of additional cell tower facilities. A moratorium would:

1. Address the potential threat that additional cell towers may have on local residents, schoolchildren, and workers;
2. Provide the City with time to carefully consider appropriate siting regulations that should be adopted for cell towers; and
3. Alleviate fears in the community.

The attached document further documents the purpose of adopting a moratorium at this time.

It is for the above reasons that the Subcommittee recommends that the City Council ask the City's legal counsel to prepare and present an emergency ordinance establishing a moratorium to the City Council at the Council's October 19 meeting.

Signed:

Chairperson Mark Grzan

Committee member Dennis Kennedy

PURPOSE

(a) The Federal Telecommunications Act preserves the authority of local governments over reasonable nondiscriminatory decisions regarding the placement, construction, and modification of wireless telecommunications towers. It appears that there will be a continual interest and need to construct towers to meet demand and accommodate new technologies within the State and Morgan Hill. The City has received requests to locate such towers and accessory uses and expects to receive requests in the near future to locate such towers and accessory uses.

(b) The City has significant concerns over the location of wireless telecommunications towers within the City. The zoning regulations of the City were adopted at a time before wireless telecommunications towers were common, and appropriate siting and development standards do not exist. The City would like to insure that the installation of these towers proceeds in a fashion that minimizes any adverse impacts while maximizing services and benefits to the community. The City wants to accommodate the need for wireless telecommunications towers while regulating their location and number; minimize adverse visual impacts through proper design, siting and screening; avoid potential physical damage to adjacent properties; and encourage joint use of tower structures.

(c) This moratorium is necessary in order address the City's concerns by barring final decisions on applications for tower construction in order to allow the City time to research the issues and adopt a local law regulating wireless telecommunications towers and accessory uses consistent with the General Plan. The City hopes to develop legislation that will establish a clear and understandable permitting process to guide local officials and businesses. In order to facilitate this effort, the City will seek the input of citizens through the public hearing process and will request comments and suggestions from companies that provide wireless services within the area.



CITY COUNCIL STAFF REPORT

MEETING DATE: *October 5, 2005*

Agenda Item # 16

Prepared By:

**Council Services &
Records Manager**

Submitted By:

City Manager

LEAGUE OF CALIFORNIA CITIES ANNUAL CONFERENCE RESOLUTIONS

RECOMMENDED ACTION(S): Provide League of California Cities Voting Delegate Direction regarding League Resolutions

EXECUTIVE SUMMARY:

Each year, the League of California Cities considers policy resolutions at their annual conference. At the Council's July 27, 2005 meeting, the Council appointed Mayor Kennedy as the City's primary voting delegate and Council Member Grzan as the alternate voting delegate to the League of California Cities' Annual conference. Mayor Kennedy will be unable to attend the League's business meeting; therefore, Council Member Grzan will be the City's Voting Delegate. At the July 27 Council meeting, Council Member Carr inquired whether the City Council would have an opportunity to review the issues to be voted upon by the delegates. Mayor Kennedy requested that staff bring forward the resolutions to be voted upon by the delegates at the League of California Cities annual conference to the Council for timely review.

This year, there are eight resolutions to be voted upon by voting League members at the concluding general session/general assembly to be held on Saturday, October 8 at 10:00 a.m. Most resolutions were referred to the appropriate City Council subcommittees for review and recommendation. Attachment A identifies four resolutions considered by the various Council subcommittees and their recommendations. The eight League of California Cities resolutions are attached for Council reference. The Council subcommittee members may have comments to offer regarding their recommendations to the resolutions.

Mayor Kennedy is recommending that the Council discuss whether the City should take a position on Proposition 76, the State Spending and School Funding Limits; Initiative Constitutional Amendment. Proposition 76 was not referred to a Council subcommittee for review/recommendation. Information relating to Proposition 76 and what it would do for local government are attached for Council consideration. Staff has been informed that the League of California Cities has decided not to take a position on Proposition 76.

FISCAL IMPACT: *No budget adjustment required.*

EXHIBIT A

LEAGUE OF CALIFORNIA CITIES RESOLUTIONS

1. Resolution relating to publication of home addresses and telephone numbers of elected and appointed officials. The Public Safety and Community Services Subcommittee reviewed this resolution on September 21, 2005. Committee members **do not recommend City endorsement of the resolution.**
2. Resolution relating to Public Sector Mentoring Program.
3. Resolution relating to the Ahwahnee Water Principles for Resource-Efficient Land Use.
4. Resolution relating to Voluntary Statewide Residential Green Building Guidelines. The Utilities and Environment Subcommittee reviewed this resolution on September 19 and agreed to **recommend City endorsement** as the resolution encourages the use of green building design in public and private developments. This is consistent with the City's own position of designing green public facilities.
5. Resolution relating to the Urban Environmental Accords Adopted at United Nations World Environment Day. The Utilities and Environment Subcommittee reviewed this resolution on September 19 and agreed to **recommend City endorsement** as the resolution encourages cities to adopt the United Nations' Urban Environmental Accords. These accords address a variety of environmental protection measures.
6. Resolution relating to Sexual Predators.
7. Resolution relating to Proposition 172, the local Public Safety Protection and Improvement Act of 1993. The Financial Policy Committee reviewed this resolution on September 28 **and recommend City endorsement, providing that the City of Morgan Hill truly benefits from any change in the distribution formula and provided that the new distribution formula is equitable.**
8. Resolution relating to Broadband Internet Access.



**CITY COUNCIL & REDEVELOPMENT AGENCY
STAFF REPORT**

MEETING DATE: OCTOBER 5, 2005

**MAYOR, COUNCIL MEMBER, & RDA BOARD MEMBER
COMPENSATION**

RECOMMENDED ACTIONS

- 1) Discuss compensation options for Mayor, City Council Members, and RDA Board Members

EXECUTIVE SUMMARY: In remarks during budget deliberations, the Mayor suggested that the City Council consider an increase in Council Member salaries. The Financial Policy Committee subsequently discussed this topic at its August 17 and August 24 meetings. While the Committee made no specific recommendations, they asked staff to confer with the City Attorney and to obtain information about how other cities have handled Council Member pay. Staff researched this topic and conferred with the City Attorney. There are three types of compensation or reimbursements: 1) Mayor & City Council Member pay, 2) RDA Board Member pay, and 3) expense reimbursements.

Regarding City Council salaries, under existing City ordinances, the Mayor has been paid, since 1996, \$800 per month and Council Members have been paid, since 1986, \$300 per month. Under Government Code section 36516, the maximum amount payable to Council Members, for cities with a population between 35,000 and 50,000, is the larger of: 1) \$400 per month or 2) the amount last approved plus 5% for each subsequent calendar year. For Morgan Hill, monthly Council Member pay could be increased up to \$400 or, using the 5% formula, up to \$722. Under the Government Code, the Mayor is entitled to the same pay as Council Members plus any additional amount that may be provided by ordinance.

Regarding RDA compensation, Board members may receive \$30 per meeting, subject to a maximum of four meetings per month, under Health and Safety Code section 37114.5.

In addition, under Government Code section 36514.5, City Council Members "...may be reimbursed for actual and necessary expenses incurred in the performance of official duties." This would be limited by the constraints of the adopted City budget.

The Financial Policy Committee asked staff to survey other local general law cities to see if they have increased the pay for City Council Members as population levels in those cities have passed the thresholds that allow for pay increases under the Government Code. Attachment A provides this information for other cities that responded to staff's inquiry.

The Committee also asked if Council Member pay increases could be implemented on an individual basis upon the start of each new term. Under Government Code section 36516.5, any increases in Council Member pay could not be effective until a new term begins for at least one Council Member. No such limitation appears to apply for RDA Board member compensation. While pay for all Council Members cannot be increased until the start of a term for at least one Council Member, the pay for all City Council Members must be adjusted at the same time. However, the City Council could approve a pay adjustment to be effective at a later date, such as January 1, 2009, following the start of new terms for all Council Member seats. Any proposed changes should be reviewed by the City Attorney for purposes of consistency.

FISCAL IMPACT: Any City Council Member pay adjustments would be paid from the General Fund and any RDA Board Member compensation would be paid by the Redevelopment Agency.

Agenda Item #	17
Prepared By:	<i>[Signature]</i>
Finance Director	
Submitted By:	<i>[Signature]</i>
City Manager/ Executive Director	

City	Council Salary Increased Yes/No	If yes, when and by how much?
California City	No	
Campbell	Yes	Every other year 5% increase per gov. code
Chino	Yes	1996; salary increased from the base amount to the annual 5% for each year which took it from \$500 to \$750. No increases in 2000, 2002, 2004
Clovis	Yes	5% every two years that becomes effective after election.
Costa Mesa (population = 113,440)	Yes	According to Gov Code 36516; salary = \$600. Recently increased salary by 15% (5% for each year since enactment of 2002) Current Salary \$828/mo; increase = \$952 effective 12/06
Duarte	No	No increase since April 1990; becoming effective November 1991
Emeryville	Yes	5% increase as part of a 2-year budget cycle
Fairfax	No	\$300/month salary; one council member waives salary
Fountain Valley	No	\$500/mo current
Gilroy (Charter city)	Yes	Salary Increases occurred in 1999 thru 2003 @ a 2.2% cost of living. No increase in 2004, contemplation of an increase in 2005. Mayor = \$1,030; Council = \$687
Glendora	Yes	1992 Compensation increased from \$250 to \$400 per month
Hanford	No	Last increase based on 1988 population. Have not used the 5% allowance
Hillsborough	No	
Lawndale	Yes	1999; 40 years after incorporation. Prior salary: \$150; current salary: \$250 (population less than 35,000)
Lake Elsinore	No	Council elects not to increase salary at this time
Los Altos	No	\$300/mo current
Lost Altos Hills	No	Last increase in 2001; compensation currently at \$250/mo
Los Gatos	No (not for several decades)	
Milpitas	No	Municipal Code establishes compensation at \$1,076 for Mayor and \$861 for Council. \$30 per RDA

City	Council Salary Increased Yes/No	If yes, when and by how much?
		meeting.
Monte Sereno	No	Not paid at all
Palo Alto (Charter city)	No	Last increase in 1998
Pinole	No	
Pittsburg	Yes	1990s when population hit 50,000. When population increases to 70,000, increase will be proposed
Redlands	No	Council cut their compensation in half this fiscal year to "share" cost-cutting asked of department heads. Current salary - \$250/mo
Rocklin	Yes	January 2003; \$300/mo. increased to \$685/mo.
Roseville (Charter City)	No	Last increase was 11/7/00 - Charter amendment authorizes increase based on population.
San Dimas	Yes	5% increase after each election. Council does not want to be left too far behind in compensation; but do not want it to make huge increases
Santa Clara (Charter City)	Yes	Late 1990s increased from \$200 with no CPI to \$600 with CPI. Last increase was in 1960s
Santa Maria (became Charter City several years ago; but still abide by General Laws of the State)	Yes	Every few years Council increases salary by 5%. Recently increased salaries by \$120 using the 5% increase. Current compensation: \$920
Saratoga	No	\$250/mo. (recently reinstated due to budget constraints last two years)
South Lake Tahoe	No	Last increase was in 1998. Compensation = \$452/mo
Sunnyvale (Charter city)	Yes	Every January compensation increases by 5%; Mayor = \$2,082; Council \$1,561 (current)
Tustin	Yes	3/21/05 for an 11/06 increase (following election). Used 5% factor. Salary will increase from \$675 to \$861.49
Ukiah	No (not for several years due to budget constraints)	
Woodland	No	Salary has not increased over the past 15 years. An attempt to increase was made in 2004 to tie to population, but failed.